
LEASE AGREEMENT BETWEEN

**LIT INDUSTRIAL LIMITED PARTNERSHIP,
a Delaware limited partnership,**

AS LANDLORD, AND

**SOLOPOWER, INC.,
a Delaware corporation**

AS TENANT

**6308-6310 N. MARINE DRIVE,
PORTLAND, OREGON**

LEASE AGREEMENT
(Oregon Net Lease)

THIS LEASE AGREEMENT ("Lease") is dated as of the last date set forth on the signature page attached hereto, between LIT INDUSTRIAL LIMITED PARTNERSHIP, a Delaware limited partnership ("Landlord") and SOLOPOWER, INC., a Delaware corporation ("Tenant").

BASIC LEASE PROVISIONS

Premises: Approximately 225,250 rentable square feet, as reasonably determined by Landlord, as shown on Exhibit A attached hereto (the "Premises"). The Premises is currently comprised of the entire interior of the Building (defined below); provided, however, notwithstanding the foregoing, except to the extent expressly provided herein, Tenant shall not have any rights to the roof, exterior walls, Building systems or utility raceways of the Building (except as otherwise expressly provided in this Lease).

Project: Phase I and Phase II of the Marine Drive Distribution Center (the "Project"). The Project consists of the Building, together with that certain building located at 6204-6210 N. Marine Drive, Portland, Oregon, and certain other common areas and improvements related thereto. The Project consists of approximately 331,250 rentable square feet as reasonably determined by Landlord.

Building: 6308-6310 N. Marine Drive, Portland, Oregon (the "Building").

Tenant's Proportionate Share of Project: 68.00% (based on 225,250 rentable square feet of the Premises divided by 331,250 rentable square feet of the Project).

Tenant's Proportionate Share of Building: 100% (based on 225,250 rentable square feet of the Premises divided by 225,250 rentable square feet of the Building).

Lease Term: Beginning on the Commencement Date (as defined below) and ending on the last day of the one hundred twenty sixth (126th) full calendar month thereafter.

Commencement Date: The date on which Landlord has delivered possession of the Premises to Tenant (the "Commencement Date").

Monthly Base Rent: The Monthly Base Rent shall be as follows (subject to Paragraph 4 below):

Month of Lease Term:

Base Rent:

1-18	\$77,578.00 per month
19-30	\$79,711.40 per month
31-42	\$81,903.46 per month
43-54	\$84,155.80 per month
55-66	\$86,470.09 per month
67-78	\$88,848.02 per month
79-90	\$91,291.34 per month
91-102	\$93,801.85 per month
103-114	\$96,381.40 per month
115-126	\$99,031.89 per month

Base Rent Credit: See Paragraph 4(b) below.

Initial Estimated Monthly
Operating Expense Payment
(estimate only and subject to
adjustment to actual costs and
expenses according to the
provisions of this Lease);

\$23,651.25 per month (does not include utilities, which are to be paid
separately in accordance with Paragraph 7 herein).

Initial Monthly Base Rent and
Estimated Operating Expense
Payments:

\$101,229.25.

Letter of Credit Amount:

\$1,500,000.00.

Permitted Use:

General industrial/warehouse use for the purpose of receiving, storing,
shipping and selling (but limited to wholesale sales) products, materials and
merchandise made and/or distributed by Tenant; manufacturing and assembly
of photovoltaic cells, modules, panels, and related products; light
manufacturing and assembly; and related administrative office use (the
"Permitted Use").

Tenant's Notice Address:

SoloPower, Inc.
5981 Optical Court
San Jose, CA 95138
Attn: CFO and/or General Counsel
Telephone: Ex. 6 PP / Ex. 7(C)
Facsimile:

with a copy to the Premises (after the Commencement Date only)

Landlord's Notice Address:

LIT Industrial Limited Partnership
c/o Clarion Partners
2650 Cedar Springs Road, Suite 850
Dallas, Texas 75201
Attention: Ex. 6 PP / Ex. 7(C)

with a copy to:

DP Partners
5500 Equity Avenue
Reno, Nevada 89502
Attention: Property Manager (Marine Drive)

Broker(s):

Kidder Mathews (Landlord's broker)

Jones Lang LaSalle and ORION Commercial Partners (Tenant's broker)

Addenda:

Rules and Regulations; Exhibit A (Premises, Outside Yard Area, Tenant's
Exclusive Parking Area, and First Offer Space); Exhibit B (Form of Consent to
Assignment Agreement and Consent to Sublease Agreement); Exhibit C (Form
of Governmental Lender Subordination and Non-Disturbance Agreement);
Exhibit D (Intentionally Omitted); Exhibit E (Environmental Questionnaire);
and Exhibit F (Form of Leasehold Deed of Trust)

LEASE

1. Granting Clause; Lease Term.

(a) In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other terms, covenants, and conditions hereof, Landlord leases to Tenant, and Tenant leases from Landlord, the Premises, to have and to hold for the Lease Term, subject to the terms, covenants and conditions of this Lease. The term of this Lease shall commence on the "Commencement Date" specified in or established above, and except as otherwise provided herein, shall continue in full force and effect through the number of months as provided above (the "Lease Term"); provided, however, that if the Commencement Date is a date other than the first day of a calendar month, the Lease Term shall consist of the remainder of the calendar month including and following the Commencement Date, plus said number of full calendar months. If this Lease is executed before the Premises become vacant or otherwise available or if any present tenant or occupant of the Premises holds over, and Landlord cannot acquire possession of the Premises in time to deliver them by the estimated Commencement Date, or if any required repairs (if any) are not substantially completed by Landlord prior to the scheduled Commencement Date, this Lease shall not be deemed void or voidable nor shall Landlord be deemed to be in default hereunder, nor shall Landlord be liable for any loss or damage directly or indirectly arising out of such delay. Tenant agrees to accept possession of the Premises at such time as Landlord is able to tender the same, which date shall thenceforth be deemed the Commencement Date. After the Commencement Date, Tenant shall, upon demand, execute and deliver a letter of acceptance of delivery of the Premises specifying the Commencement Date. Landlord and Tenant agree that the rentable square footage of the Premises as set forth above and the Building as set forth above shall be conclusive and binding on the parties.

(b) Notwithstanding anything to the contrary in this Lease: (1) if the Commencement Date has not occurred for any reason whatsoever (even if on account of events of Force Majeure) on or before the date that is sixty (60) days after the date of this Lease, or the next Business Day (as defined in Paragraph 4(a) of this Lease) immediately following the expiration of such 60-day period if the last day of such 60-day period is not a Business Day (the "Rent Incentive Date"), then the date on which Tenant's payment of Base Rent and Operating Expenses is to commence under this Lease shall be delayed by one day for each day that the Commencement Date is delayed beyond the Rent Incentive Date (not to exceed 180 days of delay in the aggregate); and (2) if the Commencement Date has not occurred for any reason whatsoever (even if on account of events of Force Majeure) on or before the date that is one hundred (100) days after the date of this Lease or the next Business Day immediately following the expiration of such 100-day period if the last day of such 100-day period is not a Business Day, then (a) Tenant may terminate this Lease at any time thereafter (but prior to the occurrence of the Commencement Date) by giving Landlord written notice of Tenant's exercise of the termination right set forth herein, (b) Landlord shall have a period of five (5) Business Days following the date of Tenant's termination notice to cause the Commencement Date to occur, (c) if Landlord fails to cause the Commencement Date to occur prior to the expiration of such 5-Business Day period, then this Lease shall terminate effective upon the expiration of such 5-Business Day period, Landlord shall immediately return to Tenant any letter of credit or security deposit and any advance payment of rent, and the parties thereafter shall have no further obligations under this Lease, and (d) if Landlord causes the Commencement Date to occur within such 5-Business Day period, then this Lease shall remain in effect and Tenant's termination notice shall be nullified. Landlord will use commercially reasonable efforts to obtain possession of the Premises as soon as reasonably practicable following the date of this Lease (provided, however, notwithstanding anything to the contrary herein, the provisions of this Paragraph 1(b) shall constitute Tenant's sole and exclusive remedies in connection with any failure of the Commencement Date to occur by any particular date).

2. Acceptance of Premises.

(a) Subject to Paragraph 2(b) below and except as expressly set forth in this Lease, Tenant shall accept the Premises on the Commencement Date in its "as-is" condition, subject to all applicable laws, ordinances, regulations, covenants and restrictions, and Landlord shall have no obligation to perform or pay for any repair or other work therein. Landlord has made no representation or warranty as to the suitability of the Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises are suitable for Tenant's intended purposes. Tenant acknowledges that, subject to Paragraph 2(b) below and except as expressly set

forth in this Lease, (i) it has inspected and accepts the Premises in an "As Is, Where Is" condition, (ii) the Building and improvements in the Premises are suitable for the purpose for which the Premises are leased and Landlord has made no warranty, representation, covenant, or agreement with respect to the merchantability or fitness for any particular purpose of the Premises, (iii) the Premises are in good and satisfactory condition, (iv) no representations as to the repair of the Premises, nor promises to alter, remodel or improve the Premises have been made by Landlord, and (v) there are no representations or warranties, expressed, implied or statutory, that extend beyond the description of the Premises. Except as expressly provided in this Lease, in no event shall Landlord have any obligation for any defects in the Premises or any limitation on its use. The taking of possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken except for items that are Landlord's responsibility under Paragraph 10 and any punch-list items agreed to in writing by Landlord and Tenant.

(b) Landlord hereby represents that, as of the Commencement Date, the existing electrical, plumbing, sprinkler and mechanical systems serving the Premises (collectively, the "**Building Systems**") shall be in good working order (except to the extent any defects therein exist as a result of any act or omission of Tenant or Tenant's agents, employees, contractors, subcontractors, subtenants, assigns, licensees or invitees); provided, however, if Tenant does not deliver written notice to Landlord of any material defects with respect to the condition of the Building Systems within ninety (90) days following the Commencement Date, then Tenant shall be deemed to have inspected and accepted the same in their present condition, and the correction of any subsequently discovered defects shall be the obligation of the applicable party pursuant to the other provisions of this Lease. If a material breach of the foregoing representation exists, and Tenant timely (i.e., within ninety (90) days following the Commencement Date) delivers written notice to Landlord setting forth in reasonable detail a description of such material breach, Landlord shall, as Tenant's sole and exclusive remedy, rectify the same at Landlord's expense.

3. Use.

(a) Subject to Tenant's compliance with all applicable zoning ordinances and Legal Requirements (as hereinafter defined), the Premises shall be used only for the Permitted Use and incidental office use related thereto; provided, however, no retail sales may be made from the Premises. Tenant shall not conduct or give notice of any auction, liquidation, or going out of business sale on the Premises. Tenant will use the Premises in a careful, safe and proper manner and will not commit waste, overload the floor or structure of the Premises or subject the Premises to use that would damage the Premises. Tenant shall have access to the Premises 24-hours a day, seven days a week. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, or take any other action that would constitute a nuisance or would disturb, unreasonably interfere with, or endanger Landlord or any tenants of the Project. Except as expressly provided below, outside storage, including without limitation, storage of trucks and other vehicles, is prohibited without Landlord's prior written consent. Subject to Tenant's compliance with all applicable zoning ordinances, Legal Requirements and all reasonable rules and regulations prescribed by Landlord from time to time, Landlord hereby consents to Tenant's storage of certain equipment in the outside yard area depicted on Exhibit A attached hereto (the "**Outside Yard Area**"). Tenant shall maintain the Outside Yard Area in a neat and orderly condition at all times and shall use the Outside Storage Area for no purposes other than for storage as expressly permitted in the immediately preceding sentence and for parking of Tenant's vehicles. For purposes of all of Tenant's responsibilities, obligations and liabilities (but not rights) under this Lease (including, without limitation, Tenant's indemnification, repair, restoration and surrender obligations), the Outside Yard Area shall be deemed to be a part of the Premises (and Tenant shall have exclusive use of the Outside Storage Area at all times during the Lease Term, as may be extended). To the extent required by Landlord and/or applicable Legal Requirements, Tenant shall, at Tenant's sole cost and expense, install temporary fencing and/or screening around the Outside Yard Area, subject to the terms and conditions of Paragraph 12 below (including, without limitation, Tenant's obligation to comply with all Legal Requirements and Landlord's right to review and approve of detailed plans and specifications).

(b) Tenant, at its sole expense, shall comply with all laws, including, without limitation, the Americans With Disabilities Act, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises (collectively, "**Legal Requirements**"). The Premises shall not be used as a place of public accommodation under the Americans With Disabilities Act or similar state statutes or local ordinances or any regulations promulgated thereunder, all as may be amended from time to time. Tenant shall, at its expense, make any alterations or modifications, within or without the Premises, that are

required by Legal Requirements related to Tenant's specific and particular use or occupation of the Premises. Tenant will not use or permit the Premises to be used for any purpose or in any manner that would void Tenant's or Landlord's insurance, increase the insurance risk, or cause the disallowance of any sprinkler credits. To the extent any increase in the cost of any insurance on the Premises or the Project is caused by Tenant's specific and particular use or occupation of the Premises, or because Tenant vacates the Premises, then Tenant shall pay the amount of such increase to Landlord. Any entrance into or occupation of the Premises by Tenant prior to the Commencement Date shall be subject to all obligations of Tenant under this Lease. Tenant represents and warrants to Landlord that Tenant is currently in compliance with and shall at all times during the Lease Term (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

(c) Tenant and its employees and invitees shall have the non-exclusive right to use, in common with others, any areas designated by Landlord from time to time as common areas for the use and enjoyment of all tenants and occupants of the Project, subject to such reasonable rules and regulations as Landlord may promulgate from time to time.

4. Base Rent.

(a) Tenant shall pay Base Rent in the amounts set forth on the first page of this Lease. The initial monthly Base Rent (for the first full month in which Base Rent is due and payable) and the initial monthly installment of estimated Operating Expenses (as hereafter defined) shall be due and payable on the date hereof, and Tenant promises to pay to Landlord in advance, without demand, deduction or set-off, monthly installments of Base Rent on or before the first day of each calendar month succeeding the Commencement Date. Payments of Base Rent for any fractional calendar month shall be prorated. All payments required to be made by Tenant to Landlord hereunder shall be payable at such address as Landlord may specify from time to time by written notice delivered in accordance herewith. The obligation of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations and shall constitute rent. Tenant shall have no right at any time to abate, reduce, or set-off any rent due hereunder except where expressly provided in this Lease. Tenant acknowledges that late payment by Tenant to Landlord of any rent due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of such costs being extremely difficult and impractical to determine. Therefore, if Tenant is delinquent in any monthly installment of Base Rent, estimated Operating Expenses or other sums due and payable hereunder for more than five (5) days, Tenant shall pay to Landlord on demand a late charge equal to five percent (5%) of such delinquent sum (provided, however, with respect to the very first late payment in any twelve (12) month period only, such late charge shall not be due and payable unless Tenant fails to pay the applicable amount within five (5) Business Days following written notice from Landlord that such amount is due). The parties agree that such late charge represents a fair and reasonable estimate of the costs that Landlord will incur by reason of such late payment by Tenant. The late charge shall be deemed to be rent, and the right to require it shall be in addition to all of Landlord's other rights and remedies for a payment failure of Tenant, including the right to charge interest on the past due amount. As used in this Lease, "Business Day" shall mean Monday through Friday except for state and federal holidays observed by the State of Oregon.

(b) Subject to the terms and conditions of this Paragraph 4(b), provided that no Event of Default has then occurred, Tenant shall be credited with the payment of the monthly Base Rent with respect to the Premises for the first (1st) through sixth (6th) full calendar months of the initial Lease Term only (collectively, the "Base Rent Credit"), in each case as and when the same becomes due and payable (for a total Base Rent Credit equal to \$465,468.00 in the aggregate, subject to the terms hereof). No such Base Rent Credit shall reduce the amount of any other amounts which are otherwise payable by Tenant under this Lease, including, without limitation, Operating Expenses. Tenant understands and agrees that the foregoing Base Rent Credit is conditioned upon there not being an Event of Default under this Lease. Accordingly, upon the occurrence of any Event of Default under this Lease, the foregoing Base Rent Credit shall immediately become null and void as to any then-remaining portion of such Base Rent Credit (and Tenant shall no longer be entitled to any future credit against Base Rent on account of the Base Rent Credit).

5. Letter of Credit.

(a) As security for the full and faithful payment of all sums due under this Lease and the full and faithful performance of every covenant and condition of this Lease to be performed by Tenant, within fifteen (15) days after the date of this Lease, Tenant shall deliver to Landlord a letter of credit in the amount of One Million Five Hundred Thousand and 00/100 Dollars (\$1,500,000.00) (the "LC Amount") in favor of Landlord and effective immediately upon issuance (the "Letter of Credit"). The Letter of Credit initially delivered pursuant to this paragraph and all substitutions, replacements and renewals of it, must be consistent with and shall satisfy all the following requirements: (i) the Letter of Credit shall be clean, irrevocable and unconditional; (ii) the Letter of Credit must be issued by a national bank which is satisfactory to Landlord; (iii) the Letter of Credit shall have an expiration date no earlier than the first anniversary of the date of its issuance and shall provide for its automatic renewal from year to year unless terminated by the issuing bank by notice to Landlord given not less than thirty (30) days prior to its expiration date by registered or certified mail (and the final expiration date of the Letter of Credit and all renewals of it shall be no earlier than sixty (60) days following the end of the Lease Term); (iv) the Letter of Credit may be drawn at the office of the issuer, either in person or by mail or courier, and must allow for draws to be made at sight pursuant to a form of draw request which has been approved by Landlord; (v) the Letter of Credit must allow for one draw in the whole amount or multiple partial draws (and Landlord shall not, as a condition to any draw, be required to deliver any certificate, affidavit or other writing to the issuer expressing the basis for the draw, nor shall the issuer have the right to inquire as to the basis for the draw); (vi) the Letter of Credit shall be freely transferable by Landlord; (vii) the Letter of Credit shall be governed by (A) the International Standby Practices (SP 98 published by the International Chamber of Commerce and (B) the United Nations Convention on Independent Guarantees and Standby Letters of Credit; and (viii) the Letter of Credit shall otherwise be in such form and shall be subject to such requirements as Landlord may reasonably require. Without limiting the generality of the foregoing, the Letter of Credit must be issued by a bank or financial institution acceptable to Landlord (x) that is chartered under the laws of the United States, any state thereof or the District of Columbia, and which is insured by the Federal Deposit Insurance Corporation, (y) whose long-term debt ratings on bank level senior debt obligations are rated in not lower than the second highest category by at least two of Fitch Ratings Ltd. ("Fitch"), Moody's Investors Service, Inc. ("Moody's") and Standard & Poor's Ratings Services ("S&P") or their respective successors (the "Rating Agencies") (which, as of the date hereof, shall mean AA from Fitch, Aa from Moody's or AA from S&P) and (z) which has a short-term deposit rating at the bank level in the highest category from at least two Rating Agencies (which shall mean F1 from Fitch, P-1 from Moody's and A-1 from S&P). Landlord agrees that, as of the date hereof, Bridge Bank, NA is an acceptable issuer of the Letter of Credit (without limiting Landlord's right to reevaluate the acceptability of such issuer from time to time in accordance with the terms and conditions of this Paragraph 5).

(b) Landlord may draw on the Letter of Credit, in whole or in part at Landlord's election, without advance notice to Tenant at any time or from time to time on or after (a) the occurrence of any Event of Default (including, without limitation, any failure of Tenant to comply with the terms and conditions of Paragraph 30 below), or (b) if Tenant, or anyone in possession of the Premises (or any portion thereof) through Tenant, holds over after the expiration or earlier termination of this Lease, or (c) Landlord is given notice by the issuer of the Letter of Credit that it is terminating the Letter of Credit and Tenant does not provide a replacement letter of credit that complies with the requirements of this Lease within twenty (20) days prior to the termination date, or (d) the Letter of Credit expires on a specified date by its terms and is not renewed or replaced at least thirty (30) days in advance of its expiration date, or (d) to the extent permitted by law, in the event any bankruptcy, insolvency, reorganization or any other debtor creditor proceeding is instituted by or against Tenant. Tenant hereby waives the provisions of any law, now or hereafter in effect, which limits the manner in which Landlord may apply sums drawn from the Letter of Credit, it being agreed that Landlord may apply such amounts towards any sums reasonably necessary to compensate Landlord for any other loss or damage, foreseeable or unforeseeable, caused by the acts or omissions of Tenant or any officer, employee, agent, contractor or invitee of Tenant. If, for any reason, Tenant provides Landlord with a replacement Letter of Credit in accordance with the provisions of this Paragraph 5, then Landlord shall promptly return the existing Letter of Credit to Tenant.

(c) In addition, if at any time the bank or financial institution that issues the Letter of Credit is declared insolvent, or is placed into receivership by the Federal Deposit Insurance Corporation or any other governmental or quasi-governmental institution, or if there is a material adverse change in the financial or business condition of the bank or financial institution from the date of this Lease as reasonably determined by Landlord, then

following written notice from Landlord, Tenant shall have fifteen (15) days to replace the Letter of Credit with a new letter of credit from a bank or financial institution reasonably acceptable to Landlord. If Tenant does not replace the Letter of Credit with a new letter of credit from a bank or financial institution reasonably acceptable to Landlord within such fifteen (15) day period, then notwithstanding anything to the contrary herein, Tenant shall be in default under the Lease (without any notice or opportunity to cure), and Landlord shall have the right to draw upon the Letter of Credit for the full amount of the Letter of Credit, and such amount shall be held by Landlord as a cash security deposit for application, at Landlord's election, to future sums owing to Landlord under the Lease, in such order and priority as Landlord elects in its absolute discretion.

(d) Landlord may apply any sum drawn on the Letter of Credit to amounts owing to Landlord under this Lease in such order and priority as Landlord elects in its absolute discretion. If any of the proceeds drawn on the Letter of Credit are not applied immediately to sums owing to Landlord under this Lease, Landlord may retain any such excess proceeds as a cash security deposit for application, at Landlord's election, to future sums owing to Landlord under this Lease, in such order and priority as Landlord elects in its absolute discretion. Tenant shall, within fifteen (15) days after Landlord's demand, restore the amount of the Letter of Credit drawn so that the Letter of Credit is restored to the original amount of the Letter of Credit. If Tenant does not restore the Letter of Credit to its original amount within the required time period, such non-restoration shall be considered an Event of Default.

(e) Additionally, Landlord's draw and application of all or any portion of the proceeds of the Letter of Credit shall not impair any other rights or remedies provided under this Lease or under applicable law and shall not be construed as a payment of liquidated damages. If Tenant shall have fully complied with all of the covenants and conditions of this Lease, the Letter of Credit shall be returned to Tenant or, if Landlord has drawn on the Letter of Credit, the remaining proceeds of the Letter of Credit which are in excess of sums due the Landlord shall be repaid to Tenant, without interest, within sixty (60) days after the expiration or termination of the Lease Term, delivery of possession of the Premises by Tenant to Landlord in accordance with this Lease, and the satisfaction by Tenant of all of its obligations under the Lease.

(f) On any request by Landlord made during the Lease Term, Tenant shall cooperate in accomplishing any reasonable modification of the Letter of Credit requested by Landlord. If the Letter of Credit should be lost, mutilated, stolen or destroyed, Tenant shall cooperate in obtaining the issuance of a replacement.

(g) Tenant shall not assign or grant any security interest in the Letter of Credit and any attempt to do so shall be void and of no effect.

(h) In the event of a sale or transfer of Landlord's estate or interest in the Premises, Landlord shall have the right to transfer the Letter of Credit to the vendee or the transferee, Tenant shall pay any transfer fees charged by the issuing bank and Landlord shall thereafter be considered released by Tenant from all liability for the return of the Letter of Credit. Tenant shall cooperate in effecting such transfer.

(i) No mortgagee or purchaser of any or all of the Premises at any foreclosure proceeding brought under the provisions of any mortgage shall (regardless of whether the Lease is at the time in question subordinated to the lien of any mortgage) be liable to Tenant or any other person for any or all amounts drawn against the Letter of Credit or any other or additional security deposit or other payment made by Tenant under the provisions of this Lease), unless Landlord has actually delivered it in cash to such mortgagee or purchaser, as the case may be.

6. Operating Expense Payments.

(a) During each month of the Lease Term, on the same date that Base Rent is due, Tenant shall pay Landlord an amount equal to 1/12th of the annual cost, as estimated by Landlord from time to time, of Tenant's Proportionate Share (hereinafter defined) of Operating Expenses for the Project. Payments thereof for any fractional calendar month shall be prorated. The provisions of this Paragraph 6 shall survive the expiration or earlier termination of the Lease.

(b) The term "**Operating Expenses**" means all costs and expenses incurred by Landlord in connection with the ownership, maintenance, and/or operation of the Project including, but not limited to costs of: Common Area utilities; maintenance, repair and replacement of all portions of the Project, including without limitation, paving and parking areas, roads, roofs, roof membrane, alleys, and driveways; mowing, snow removal, landscaping, and exterior painting; the cost of maintaining utility lines, fire sprinklers and fire protection systems, exterior lighting and mechanical and building systems serving the Building or Project; amounts paid to contractors and subcontractors for work or services performed in connection with any of the foregoing; charges or assessments of any association to which the Project is subject; fees payable to tax consultants and attorneys for consultation and contesting taxes (not to exceed the amount of tax saving reasonably expected to be achieved by Landlord); environmental insurance, environmental management fees and environmental audits; the cost of any insurance deductibles for insurance maintained by Landlord (which deductibles shall be commercially reasonable, based on the deductibles maintained by other institutional owners of commercial properties similar to the Project in the market in which the Project is located); property management fees payable to a property manager, including any affiliate of Landlord (which property management fees shall be commercially reasonable, based on the property management fees paid or incurred by other institutional owners of commercial properties similar to the Project, in the market in which the Project is located); security services, if any; trash collection, sweeping and removal; and additions or alterations made by Landlord to the Project or the Building in order to comply with Legal Requirements (other than those expressly required herein to be made by Tenant) or that are appropriate to the continued operation of the Project or the Building as a bulk warehouse/industrial or service center facility in the market area, provided that the cost of such additions or alterations that are required to be capitalized for federal income tax purposes shall be amortized on a straight line basis over a period equal to the useful life thereof for federal income tax purposes and included in Operating Expenses only to the extent of the amortized amount for the respective calendar year. In addition, Operating Expenses shall include (1) Taxes (hereinafter defined) due and payable each calendar year during the Lease term, and (2) the cost of insurance maintained by Landlord for the Project for each calendar year during the Lease term.

(c) Notwithstanding the foregoing, Operating Expenses do not include (1) debt service under mortgages or ground rent under ground leases; (2) costs of restoration to the extent of net insurance proceeds received by Landlord or which Landlord is entitled to receive with respect thereto; (3) leasing commissions or the costs of renovating space for tenants; (4) any costs or legal fees incurred in connection with a dispute with any particular tenant; (5) any costs occasioned by the act, omission or violation of any law by Landlord, any other occupant of the Project, or their respective agents, employees or contractors; (6) costs occasioned by casualties or by the exercise of the power of eminent domain; (7) costs to correct any defect in the initial construction of the Building or to remedy any violation of generally applicable (for ordinary warehouse use) Legal Requirements with respect to the Premises or the Project existing on the Commencement Date; (8) costs caused by the violation by Landlord or any other occupant of the Project of the terms and conditions of any lease or other agreement; and (9) costs incurred in connection with the remediation or removal of Hazardous Materials (as defined in Paragraph 30 of this Lease) not caused by Tenant (or any agent, employee, contractors, licensee or invitee of Tenant); provided that this item (9) shall not limit Tenant's obligations or liabilities under Paragraph 30. The cost of any repairs or replacements which are classified as capital improvements under generally accepted accounting principles shall be amortized with interest (at a rate reasonably determined by Landlord) over the useful life of the improvement as determined using IRS guidelines and included in Operating Expenses only to the extent of the amortized amount for the respective calendar year.

(d) Following the close of each calendar year during the Lease Term, Landlord shall deliver to Tenant a statement of the actual Operating Expenses payable under this Paragraph 6 for such year (the "**Actual Statement**") and, subject to Paragraph 6(g) below, such statement shall be final and binding upon Landlord and Tenant. Landlord shall use commercially reasonable efforts to deliver an Actual Statement within one hundred twenty (120) days following the close of each calendar year (provided that Tenant's obligations under this Lease shall not be reduced as a result of any failure of Landlord to deliver an Actual Statement by such date). If, as set forth in the applicable Actual Statement, Tenant's total payments of Operating Expenses for any year are less than Tenant's Proportionate Share of actual Operating Expenses for such year, then Tenant shall pay the difference to Landlord within thirty (30) days after demand, and if more, then Landlord shall retain such excess and credit it against Tenant's next payments (or return such amount to Tenant if this Lease has expired or otherwise terminated). For purposes of calculating Tenant's Proportionate Share of Operating Expenses, a year shall mean a calendar year

except the first year, which shall begin on the Commencement Date, and the last year, which shall end on the expiration of this Lease.

(e) With respect to Operating Expenses which Landlord allocates to the entire Project, Tenant's "Proportionate Share" shall be the percentage set forth on the first page of this Lease as Tenant's Proportionate Share of the Project as reasonably adjusted by Landlord in the future for changes in the physical size of the Premises or the Project; and, with respect to Operating Expenses which Landlord allocates only to the Building, Tenant's "Proportionate Share" shall be the percentage set forth on the first page of this Lease as Tenant's Proportionate Share of the Building as reasonably adjusted by Landlord in the future for changes in the physical size of the Premises or the Building. Landlord may equitably increase Tenant's Proportionate Share for any item of expense or cost reimbursable by Tenant that relates to a repair, replacement, or service that benefits only the Premises or a portion thereof. The estimated Operating Expenses for the Premises set forth on the first page of this Lease are only estimates, and Landlord makes no guaranty or warranty that such estimates will be accurate.

(f) Provided there does not then exist an Event of Default, Tenant shall have the right, once each calendar year, to cause a Qualified Person (as defined below) to reasonably review supporting data for any Actual Statement (provided, however, Tenant may not have an audit right to all documentation relating to Building operations as this would far-exceed the relevant information necessary to properly document a pass-through billing statement, but real estate tax statements, and information on utilities, repairs, maintenance and insurance, and such information as necessary to substantiate the amounts set forth in the Actual Statement, will be available), in accordance with the following procedure:

(1) Tenant shall, within ninety (90) days after any Actual Statement is delivered, deliver a written notice to Landlord specifying the Actual Statement, or portions thereof, that are claimed to be incorrect, and Tenant shall simultaneously pay to Landlord all amounts due from Tenant to Landlord as specified in the Actual Statement. In no event shall Tenant be entitled to withhold, deduct, or offset any monetary obligation of Tenant to Landlord under the Lease (including without limitation, Tenant's obligation to make all payments of rent and all payments of Tenant's Operating Expenses) pending the completion of and regardless of the results of any review of records under this Paragraph. The right of Tenant under this Paragraph may only be exercised once for any Actual Statement, and if Tenant fails to meet any of the above conditions as a prerequisite to the exercise of such right, the right of Tenant under this Paragraph for a particular Actual Statement shall be deemed waived.

(2) Tenant acknowledges that Landlord maintains its records for the Project at Landlord's main office, and Tenant agrees that any review of records under this Paragraph shall be at the sole expense of Tenant and shall be conducted by a Qualified Person. Tenant acknowledges and agrees that any records reviewed under this Paragraph constitute confidential information of Landlord, which shall not be disclosed to anyone other than the Qualified Person performing the review, the principals of Tenant who receive the results of the review, Tenant's employees and consultants, and Tenant's Financing Parties (defined in Paragraph 17(d) below), provided that such Financing Parties are bound by confidentiality agreements or law to maintain the confidentiality of such records. The disclosure of such information to any other person, whether or not caused by the conduct of Tenant, shall constitute a material breach of this Lease.

(3) Any errors disclosed by the review shall be promptly corrected by Landlord, provided, however, that if Landlord disagrees with any such claimed errors, Landlord shall have the right to cause another review to be made by a Qualified Person. In the event of a disagreement between the two (2) reviews, the two (2) Qualified Persons who conducted Landlord's and Tenant's reviews shall jointly designate a third (3rd) Qualified Person, at Tenant's sole cost and expense (except as otherwise indicated in this Lease), to conduct a review of Landlord's records. The review of such third (3rd) Qualified Person shall be deemed correct and binding upon the parties. In the event that the final results of such review of Landlord's records reveal that Tenant has overpaid obligations for the preceding period, the amount of such overpayment shall be credited against Tenant's subsequent installment obligations to pay the estimated Operating Expenses; provided, however, if Tenant has overpaid by more than five percent (5%), Landlord shall pay the reasonable out-of-pocket cost of the review of Landlord's records by Tenant's Qualified Person and the reasonable out-of-pocket cost of the review of Landlord's records by the third (3rd)

Qualified Person. If this Lease has expired, Landlord shall return the amount of such overpayment to Tenant within thirty (30) days after such reviews have been made. In the event that such results show that Tenant has underpaid its obligations for a preceding period, the amount of such underpayment shall be paid by Tenant to Landlord with the next succeeding installment obligation of estimated Operating Expenses, or within thirty (30) days after the determination of the underpayment, whichever is later. A "Qualified Person" means an accountant or other person experienced in accounting for income and expenses of industrial projects engaged on terms which do not entail any compensation based or measured in any way upon any savings in rent or reduction in Operating Expenses achieved through the inspection process.

7. Utilities.

(a) As of the date hereof, water, gas and electricity are separately metered to the Premises. Tenant shall timely pay for all water, gas, electricity, heat, light, power, telephone, sewer, sprinkler services, refuse and trash collection, and other utilities and services used on the Premises, all maintenance charges for utilities, and any storm sewer charges or other similar charges for utilities imposed by any governmental entity or utility provider, together with any taxes, penalties, surcharges or the like pertaining to Tenant's use of the Premises. Landlord shall have no responsibilities whatsoever in connection with the foregoing. Landlord may cause at Tenant's expense any utilities to be separately metered or charged directly to Tenant by the provider. Tenant shall pay its share of all charges for jointly metered utilities based upon consumption, as reasonably determined by Landlord. Tenant agrees to limit use of water and sewer for normal restroom use or as otherwise required or necessary for the Permitted Use. Except as provided in the remainder of this Paragraph 7(a), no interruption or failure of utilities shall result in the termination of this Lease or the abatement of rent. If Tenant is prevented from using, and does not use, the Premises or a substantial portion thereof as a result of any negligent failure by Landlord to provide utility services to the Premises, and such failure was not caused directly or indirectly by the negligence or willful misconduct of Tenant, its employees, agents or visitors, guests, invitees or licensees (an "Abatement Event"), then Tenant shall give written notice of such Abatement Event to Landlord. If the Abatement Event continues for seven (7) consecutive days (the "Abatement Period") after Landlord's receipt of Tenant's written notice, then Base Rent shall be abated or reduced after expiration of the Abatement Period, for such time that Tenant continues (as a result of the Abatement Event) to be so prevented from using, and does not use, the Premises or a substantial portion thereof, in the proportion that the rentable area of the portion of the Premises that Tenant is prevented from using, and does not use, bears to the total rentable area of the Premises, provided that, subject to the foregoing provisions of this subsection, Base Rent shall be abated completely if the portion of the Premises that Tenant is prevented from using as a result of the Abatement Event, and does not use, is so significant as to make it impractical for Tenant to conduct its business in the Premises and Tenant does not, in fact, for that reason, conduct its business in the Premises..

(b) Tenant shall, at its sole cost and expense, contract directly with a janitorial service and shall pay for all janitorial services used on or for the Premises. Landlord shall have no obligations whatsoever in connection therewith. All janitorial services and employees utilized by Tenant shall be subject to Landlord's prior written consent, which Landlord shall not unreasonably withhold.

8. Taxes. Landlord shall pay all taxes, assessments, special assessments, improvement districts, and governmental charges (collectively referred to as "Taxes") that accrue against the Project during the Lease Term. Taxes shall be included as part of the Operating Expenses charged to Tenant pursuant to Paragraph 6 hereof during each year of the Lease Term, based upon Landlord's reasonable estimate of the amount of Taxes, and shall be subject to reconciliation and adjustment pursuant to Paragraph 6 once the actual amount of Taxes is known. Taxes shall include, without limitation, any increase in any of the foregoing based upon construction of improvements on the Project or changes in ownership (as defined in applicable laws). Landlord may contest by appropriate legal proceedings the amount, validity, or application of any Taxes or liens thereof and any costs incurred in such contest may be included as part of Taxes. All capital levies or other taxes assessed or imposed on Landlord upon the rents payable to Landlord under this Lease and any franchise tax, any excise, transaction, sales or privilege tax, assessment, levy or charge measured by or based, in whole or in part, upon such rents from the Premises and/or the Project or any portion thereof shall be paid by Tenant to Landlord monthly in estimated installments or upon demand, at the option of Landlord, as additional rent; provided, however, in no event shall Tenant be liable for any net income taxes imposed on Landlord unless such net income taxes are in substitution for any Taxes payable hereunder. If any such tax or excise is levied or assessed directly against Tenant, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall be

liable for all taxes levied or assessed against any personal property or fixtures placed in the Premises, whether levied or assessed against Landlord or Tenant, and if any such taxes are levied or assessed against Landlord or Landlord's property and (a) Landlord pays them or (b) the assessed value of Landlord's property is increased thereby and Landlord pays the increased taxes, then Tenant shall pay to Landlord such taxes within ten (10) days after Landlord's request therefor.

9. Insurance.

(a) Landlord shall obtain and maintain the following: (1) all risk property insurance covering the full replacement cost of the Building (excluding foundations), less a commercially reasonable deductible if Landlord so chooses; and (2) commercial general liability insurance, which shall be in such amount as Landlord so determines and shall be in addition to, and not in lieu of, any insurance required to be maintained by Tenant. Landlord shall not be obligated to insure any furniture, equipment, trade fixtures, machinery, goods, or supplies which Tenant may keep or maintain in the Premises or any alteration, addition, or improvement which Tenant may make upon the Premises. In addition, Landlord may, but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary, including, but not limited to, flood insurance and rent loss insurance. The premiums for all such insurance shall be included as part of the Operating Expenses charged to Tenant pursuant to Paragraph 6 hereof. The Project or Building may be included in a blanket policy (in which case the cost of such insurance allocable to the Project or Building will be determined by Landlord based upon the insurer's cost calculations). Tenant shall also reimburse Landlord for any increased premiums or additional insurance that Landlord reasonably deems necessary as a result of Tenant's use of the Premises. Tenant shall not be named as an additional insured on any policy of liability insurance maintained by Landlord.

(b) Effective as of the earlier of: (1) the date Tenant enters or occupies the Premises; or (2) the Commencement Date, and continuing during the Lease Term, Tenant, at its expense, shall obtain and maintain in full force the following insurance coverage (subject to increases in coverage amounts and additional types of coverage, as reasonably determined by Landlord from time to time):

(A) all risk property insurance including theft, sprinkler leakage and boiler and machinery coverage, covering the full replacement cost of all property and improvements (including the Tenant Improvements and Tenant-Made Alterations) installed or placed in the Premises by Tenant or for Tenant's benefit. Tenant shall use the proceeds from such insurance for the replacement of trade fixtures, furniture, inventory and other personal property and for the restoration of Tenant's improvements, alterations, and additions to the Premises. Landlord shall be named as loss payee with respect to alterations, additions, or improvements of the Premises;

(B) worker's compensation insurance in accordance with the laws of the state in which the Premises are located with employer's liability insurance in an amount not less than \$1,000,000;

(C) business interruption, loss of income and extra expense insurance covering failure of Tenant's equipment and covering all periods of interruption, with limits not less than one hundred percent (100%) of all charges payable by Tenant under this Lease for a period of twelve (12) months;

(D) business automobile liability insurance covering owned, hired and non-owned vehicles with limits of \$1,000,000 combined single limit per occurrence;

(E) commercial general liability insurance which insures against claims for bodily injury, personal injury, advertising injury, and property damage (and further insures against pollution liability) occurring in or about the Premises. Such commercial general liability insurance shall afford, at a minimum, the following limits: each occurrence: \$2,000,000; general aggregate: \$2,000,000; products/completed operations aggregate: \$1,000,000; personal and advertising injury liability: \$1,000,000; fire damage: \$50,000; fire legal liability: \$50,000; medical payments: \$5,000. Such commercial general liability insurance shall name Landlord, its trustees, officers, directors, members, agents, and employees, Landlord's mortgagees, and Landlord's

representatives, as additional insureds. This coverage shall include blanket contractual liability, broad form property damage liability, premises-operations and products-completed operations and shall contain an exception to any pollution exclusion which insures damage or injury arising out of heat, smoke, or fumes from a hostile fire, a contractual liability endorsement, and provide primary coverage to Landlord (any policy issued to Landlord providing duplicate or similar coverage shall be deemed excess over Tenant's policies). Such insurance shall be written on an occurrence and not a claims-made basis and contain a standard separation of insureds provision; and

(F) umbrella/excess liability insurance, on an occurrence basis, that applies in excess of the required commercial general liability, business automobile liability, and employer's liability policies with a minimum limit of \$10,000,000 per occurrence and \$10,000,000 in the annual aggregate. These limits shall be in addition to and not including those stated for the underlying commercial general liability, business automobile liability, and employers liability insurance required herein. Such excess liability policies shall name Landlord, its trustees, officers, directors, members, agents, and employees, Landlord's mortgagees, and Landlord's representatives as additional insureds.

(c) All policies required to be carried by Tenant hereunder shall be issued by and binding upon an insurance company licensed to do business in the state in which the Premises is located with a rating of at least "A - X" or better as set forth in the most current issue of Best's Insurance Reports, unless otherwise approved by Landlord in writing. Tenant shall not do or permit anything to be done that would invalidate the insurance policies required herein. Liability insurance maintained by Tenant shall be primary coverage without right of contribution by any similar insurance that may be maintained by Landlord. Certificates of insurance, acceptable to Landlord, evidencing the existence and amount of each insurance policy required hereunder (or, at Landlord's option, copies of the policies evidencing coverage) shall be delivered to Landlord prior to delivery or possession of the Premises and within ten (10) days following each renewal date. Certificates of insurance shall include an endorsement for each policy showing that Landlord, its trustees, officers, directors, members, agents, and employees, Landlord's mortgagees, and Landlord's representatives are included as additional insureds on liability policies and that Landlord is named as loss payee on the property insurance as stated in Paragraph 9(b)(1) above. Further, the certificates must include an endorsement for each policy whereby the insurer agrees to endeavor not to cancel, non-renew, or materially alter the policy without at least thirty (30) days' prior written notice to Landlord (except the notice period may be 10 days for cancellation or non-renewal for non-payment of premium).

(d) In the event that Tenant fails to comply with the foregoing insurance requirements or to timely deliver to Landlord copies of such policies and certificates evidencing the coverage required herein, Landlord, in addition to any remedy available pursuant to this Lease or otherwise, may, but shall not be obligated to, obtain such insurance and Tenant shall pay to Landlord on demand all costs thereof, plus an administrative fee of fifteen percent (15%) of such costs.

(e) The limits of insurance required by this Lease, or as carried by Tenant, shall not limit the liability of Tenant or relieve Tenant of any obligation thereunder. Any deductibles selected by Tenant shall be the sole responsibility of Tenant.

(f) Should Tenant engage the services of any contractor to perform work in the Premises, Tenant shall ensure that such contractor carries commercial general liability (including completed operations coverage for a period of three (3) years following completion of the work), business automobile liability, umbrella/excess liability, worker's compensation and employers liability coverages in substantially the same amounts as are required of Tenant under this Lease. Such contractor shall name Landlord, its trustees, officers, directors, members, agents and employees, Landlord's mortgagees and Landlord's representatives as additional insureds on the liability policies required hereunder.

(g) All policies required to be carried by any such contractor shall be issued by and binding upon an insurance company licensed to do business in the state in which the Premises is located with a rating of at least "A - X" or better as set forth in the most current issue of Best's Insurance Reports, unless otherwise approved by Landlord. Certificates of insurance, acceptable to Landlord, evidencing the existence and amount of each insurance policy required hereunder shall be delivered to Landlord prior to the commencement of any work in the

Premises. Further, the certificates must include an endorsement for each policy whereby the insurer agrees to endeavor not to cancel, non-renew, or materially alter the policy without at least thirty (30) days' prior written notice to Landlord (except the notice period may be 10 days for cancellation or non-renewal for non-payment of premium).

The above requirements shall apply equally to any subcontractor engaged by contractor where the contract value of the work to be performed under the subcontract exceeds two hundred fifty thousand dollars (\$250,000), or as otherwise required by any lender of Landlord.

(h) The all risk property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or Tenant, their officers, directors, employees, managers, agents, invitees, subtenants, and contractors, in connection with any loss or damage thereby insured against. The failure of a party to insure its property shall not void this waiver. Notwithstanding anything to the contrary contained herein, (i) Tenant hereby waives and releases any claims against Landlord, and its officers, directors, employees, managers, agents, invitees, and contractors for any loss or damage to the extent insured against or required to be insured against by Tenant hereunder (whether by self-insurance or otherwise), regardless of whether the negligence or fault of Landlord caused such loss; however, Tenant's waiver shall not apply to any deductible amounts maintained by Tenant under its insurance (which deductible shall be commercially reasonable), and (ii) Landlord hereby waives and releases any claims against Tenant, and its officers, directors, employees, managers, agents, invitees and contractors for any loss or damage to the extent insured against by Landlord or required to be insured against hereunder, regardless of whether the negligence or fault of Tenant caused such loss; however, Landlord's waiver shall not apply to any deductible amounts maintained by Landlord under its insurance (which deductible shall be commercially reasonable, based on the deductibles maintained by other institutional owners of commercial properties similar to the Project in the market in which the Project is located). The foregoing waivers and releases shall not apply to losses or damages in excess of the greater of actual policy limits, or policy limits required to be maintained under the terms of this Lease. The waivers set forth in this Paragraph 9(h) shall be in addition to, and not in substitution for, any other waivers, indemnities, or exclusions of liabilities set forth in this Lease.

10. **Landlord's Repairs.** This Lease is intended to be a net lease. Landlord shall maintain and repair, as part of Operating Expenses, only the fire sprinklers and fire protection systems, roof, foundation piers and structural members of the exterior walls of the Building in good repair, reasonable wear and tear and uninsured losses and damages caused by Tenant, its agents, employees, contractors, licensees and invitees excluded. The term "walls" as used in this Paragraph 10 shall not include windows, glass or plate glass, doors or overhead doors, special store fronts, dock bumpers, dock plates or levelers, or office entries, all of which shall be maintained by Tenant. Tenant shall promptly give Landlord written notice of any repair required by Landlord pursuant to this Paragraph 10, after which Landlord shall have a reasonable opportunity to repair such item. Landlord shall also maintain in good repair and condition the parking areas and other common areas of the Building, including, but not limited to driveways, alleys, landscape and grounds surrounding the Premises, the cost of such maintenance, repair and replacement to be paid in accordance with Paragraph 6 hereof. Tenant hereby waives the benefit of any statute providing a right to make repairs and deduct the cost thereof from the rent. In exercising any rights Landlord may have under this Lease to undertake any renovations, alterations, additions, improvements, repairs, replacements, maintenance, inspections, or remediation, or to otherwise enter the Premises, Landlord shall use commercially reasonable efforts to minimize any unreasonable interference with Tenant's use and enjoyment of the Premises.

11. **Tenant's Repairs.**

(a) Subject to Landlord's obligation in Paragraph 10, Tenant, at its sole expense, shall repair, replace and maintain in good condition and in compliance with all Legal Requirements all portions of the Premises and all areas, improvements and systems exclusively serving the Premises including, without limitation, dock, dock equipment and loading areas, truck doors, plumbing, water, and sewer lines up to points of common connection, entries, doors, door frames, ceilings, windows, window frames, interior walls, and the interior side of demising walls, and heating, ventilation and air conditioning systems, and other building and mechanical systems serving the Premises. Such repair and replacements include capital expenditures and repairs whose benefit may extend beyond the Lease Term. Within ten (10) days of the Commencement Date, Tenant, at Tenant's expense, shall enter into maintenance service contracts for the maintenance and repair of the heating, ventilation and air conditioning systems and other mechanical and building systems serving the Premises; provided, however, at Landlord's written election (but at Tenant's expense), Landlord shall have the right (but not the obligation) to enter into such maintenance

service contracts. The scope of services and contractors under such maintenance contracts shall be subject to Landlord's prior written approval, which shall not be unreasonably withheld.

(b) In the event that any repair or maintenance obligation required to be performed by Tenant hereunder may affect the structural integrity of the Building (e.g., roof, foundation, structural members of the exterior walls), prior to commencing any such repair, Tenant shall provide Landlord with written notice of the necessary repair or maintenance and a brief summary of the structural component or components of the Building that may be affected by such repair or maintenance. Within ten (10) Business Days after Landlord's receipt of Tenant's written notice, Landlord shall have the right, but not the obligation, to elect to cause such repair or maintenance to be performed by Landlord, or a contractor selected and engaged by Landlord, but at Tenant's sole cost and expense. If Landlord so elects, then, Landlord shall use commercially reasonable efforts to minimize any unreasonable interference with Tenant's use and enjoyment of the Premises as a result of the performance of such work.

(c) Within the fifteen (15) day period prior to the expiration or termination of this Lease, Tenant shall deliver to Landlord a certificate from an engineer reasonably acceptable to Landlord certifying that the hot water equipment and the HVAC system are then in good repair and working order. If Tenant fails to perform any repair or replacement for which it is responsible, Landlord may perform such work and be reimbursed by Tenant within ten (10) days after demand therefor. Subject to Paragraphs 9 and 15, Tenant shall bear the full cost of any repair or replacement to any part of the Building or Project that results from damage caused by Tenant, its agents, contractors, or invitees and any repair that benefits only the Premises.

12. Tenant-Made Alterations and Trade Fixtures.

(a) Any alterations, additions, or improvements made by or on behalf of Tenant to the Premises ("Tenant-Made Alterations") shall be subject to Landlord's prior written consent. Tenant shall cause, at its expense, all Tenant-Made Alterations to comply with insurance requirements and with Legal Requirements and shall construct at its expense any alteration or modification required by Legal Requirements as a result of any Tenant-Made Alterations.

(b) All Tenant-Made Alterations shall be constructed in a good and workmanlike manner by contractors reasonably acceptable to Landlord and only good grades of materials shall be used. All plans and specifications for any Tenant-Made Alterations shall be submitted to Landlord for its approval. Landlord may monitor construction of the Tenant-Made Alterations. Tenant shall reimburse Landlord for its actual, reasonable out-of-pocket costs incurred in reviewing plans and specifications and in monitoring construction, which reimbursement shall not to exceed the lesser of five percent (5%) of the total cost of such Tenant-Made Alterations or One Hundred Thousand Dollars (\$100,000.00). Landlord's right to review plans and specifications and to monitor construction shall be solely for its own benefit, and Landlord shall have no duty to see that such plans and specifications or construction comply with applicable laws, codes, rules and regulations.

(c) Tenant shall provide Landlord with the identities and mailing addresses of all persons performing work or supplying materials, prior to beginning such construction, and Landlord may post on and about the Premises notices of non-responsibility pursuant to applicable law. Tenant shall assure payment for the completion of all work free and clear of liens and shall provide certificates of insurance for worker's compensation and other coverage in amounts and from an insurance company satisfactory to Landlord protecting Landlord against liability for personal injury or property damage during construction. Upon completion of any Tenant-Made Alterations, Tenant shall deliver to Landlord sworn statements setting forth the names of all contractors and subcontractors who did work on the Tenant-Made Alterations and final lien waivers from all such contractors and subcontractors.

(d) Upon surrender of the Premises, all Tenant-Made Alterations and any leasehold improvements constructed by Landlord or Tenant shall remain on the Premises as Landlord's property, except to the extent Landlord's requires removal at Tenant's expense of any such items or Landlord and Tenant have otherwise agreed in writing in connection with Landlord's consent to any Tenant-Made Alterations. Notwithstanding the foregoing, Tenant shall have the right, at the time it requests Landlord's consent and delivers all plans and specifications to any Tenant-Made Alterations to make a written request that Landlord notify Tenant whether Tenant

shall be obligated, or have the right, to remove the applicable Tenant-Made Alterations at the end of the Lease Term, in which event Tenant shall only be obligated to remove (i) those Tenant-Made Alterations that Landlord notified Tenant in writing that it must remove at the end of the Lease Term, and (ii) those Tenant-Made Alterations that Tenant did not timely seek or did not obtain Landlord's written consent to leave in place at the end of the Lease Term, and that Landlord requires Tenant to remove. Prior to the expiration or termination of this Lease, Tenant, at its sole expense, shall repair any and all damage caused by such removal and restore the Premises to their condition existing upon the Commencement Date, normal wear and tear excepted.

(e) Tenant, at its own cost and expense and without Landlord's prior approval, may erect such shelves, bins, machinery and trade fixtures (collectively "Trade Fixtures") in the ordinary course of its business provided that such items do not alter the basic character of the Premises, do not overload or damage the Premises, and may be removed without injury to the Premises, and the construction, erection, and installation thereof complies with all Legal Requirements and with Landlord's requirements set forth above. Prior to the expiration or termination of this Lease, Tenant, at its sole expense, shall remove its Trade Fixtures and shall repair any and all damage caused by such removal.

(f) Tenant has submitted to Landlord a construction plan summary for the installation of Tenant-Made Alterations to improve the Building for use as a photovoltaic module manufacturing facility, and Landlord agrees that Tenant may make Tenant-Made Alterations in accordance with such construction plan summary, at Tenant's sole expense, subject to all of the terms and conditions of this Paragraph 12 (including, without limitation, Landlord's advance written approval of final plans and specifications, which approval shall not be unreasonably withheld).

13. Signs. All signs, decorations, advertising media, blinds, draperies and other window treatment or bars or other security installations visible from outside the Premises shall be subject to Landlord's prior written approval and shall conform in all respects to Landlord's requirements. Except as expressly set forth in this Lease, Tenant shall not make any changes to the exterior of the Premises, install any exterior lights, decorations, balloons, flags, pennants, banners, or painting, or erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises, without Landlord's prior written consent. Landlord shall not be required to notify Tenant of whether it consents to any sign until it (a) has received detailed, to-scale drawings thereof specifying design, material composition, color scheme, and method of installation, and (b) has had a reasonable opportunity to review them. Upon surrender or vacation of the Premises, Tenant shall have removed all signs and repair, paint, and/or replace the building facia surface to which its signs are attached. Tenant shall obtain all applicable governmental permits and approvals for sign and exterior treatments.

14. Parking. Subject to Tenant's obligation to comply with all Legal Requirements, the terms of this Lease and all rules and regulations which are prescribed from time to time by Landlord, and provided that Tenant shall not interfere with any other tenants or occupants of the Project (or their access to or from any other portions of the Project), Tenant shall be entitled to park its vehicles within the parking area depicted on Exhibit A attached hereto ("Tenant's Exclusive Parking Area"). Notwithstanding anything to the contrary contained in this Lease, in no event shall Tenant be permitted to park its vehicles within (or otherwise utilize) any parking areas within the Project other than Tenant's Exclusive Parking Area. Landlord shall not be responsible for enforcing Tenant's parking rights against any third parties. All motor vehicles (including all contents thereof) shall be parked at the sole risk of Tenant, it being expressly agreed and understood Landlord has no duty to insure any of said motor vehicles (including the contents thereof), and Landlord is not responsible for the protection and security of such vehicles. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, LANDLORD SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY PROPERTY DAMAGE OR LOSS WHICH MIGHT OCCUR ON THE PARKING AREAS OR AS A RESULT OF OR IN CONNECTION WITH THE PARKING OF MOTOR VEHICLES IN ANY OF THE PARKING SPACES.

15. Restoration.

(a) If at any time during the Lease Term the Premises are damaged by a fire or other casualty, Landlord shall notify Tenant within sixty (60) days after such damage as to the amount of time Landlord reasonably estimates it will take to restore the Premises. If the restoration time is estimated to exceed 180 days from the date Landlord receives all permits, approvals, and licenses required to begin reconstruction, either Landlord or

Tenant may elect to terminate this Lease upon notice to the other party given no later than thirty (30) days after Landlord's notice. If neither party elects to terminate this Lease or if Landlord estimates that restoration will take 180 days or less, then, subject to receipt of sufficient insurance proceeds, Landlord shall promptly restore the Premises excluding the Tenant-Made Alterations and/or Tenant Improvements installed by Tenant or by Landlord and paid by Tenant, subject to delays arising from the collection of insurance proceeds or from Force Majeure events. Tenant at Tenant's expense shall promptly perform, subject to delays arising from the collection of insurance proceeds, or from Force Majeure events, all repairs or restoration not required to be done by Landlord and shall promptly re-enter the Premises and commence doing business in accordance with this Lease. Base Rent and Operating Expenses shall be abated for the period from the date that Landlord is notified of the casualty event to and including the substantial completion of repair and restoration in the proportion which the area of the Premises, if any, which is not usable by Tenant bears to the total area of the Premises. Notwithstanding the foregoing, either party may terminate this Lease upon thirty (30) days written notice to the other if the Premises are damaged during the last year of the Lease Term, Tenant has not exercised its option to extend the Lease Term (or Landlord and Tenant have not otherwise entered into a binding written agreement for the extension of the Lease Term) and Landlord reasonably estimates that it will take more than thirty (30) days to repair such damage. Tenant shall pay to Landlord, within ten (10) days following Landlord's demand therefor, the amount of the deductible under Landlord's insurance policy (which deductible shall be commercially reasonable, based on the deductibles maintained by other institutional owners of commercial properties similar to the Project, in the market in which the Project is located). If the damage involves portions of the Building other than the Premises, Tenant shall pay only a portion of the deductible based on the ratio of the costs of repairing the damage to the Premises to the total cost of repairing all of the damage to the Building.

(b) If the Premises are destroyed or substantially damaged by any peril not covered by the insurance maintained, or required to be maintained, by Landlord or any Landlord's mortgagee requires that insurance proceeds be applied to the indebtedness secured by its mortgage (defined hereinafter), Landlord may terminate this Lease by delivering written notice of termination to Tenant within thirty (30) days after such destruction or damage or such requirement is made known by any such Landlord's mortgagee, as applicable, whereupon all rights and obligations hereunder shall cease and terminate, except for any liabilities of Tenant which accrued prior to Lease termination. If Landlord elects to repair or restore such damage or destruction, this Lease shall continue in full force and effect, but Base Rent and Operating Expenses shall be proportionately reduced as provided in Paragraph 15(a). If Landlord elects to terminate this Lease, such termination shall be effective as of the date of the occurrence of such damage or destruction.

(c) Notwithstanding the foregoing, if the Premises or the Project are wholly or partially damaged or destroyed as a result of the negligence or willful misconduct or omission of Tenant, Tenant shall forthwith diligently undertake to repair or restore all such damage or destruction at Tenant's sole cost and expense, or Landlord may at its option undertake such repair or restoration at Tenant's sole cost and expense; provided, however, that Tenant shall be relieved of its repair and payment obligations pursuant to this Paragraph 15(c) to the extent that such damage or loss is insured against by Landlord (or, in the event that Landlord has failed to maintain the property insurance required hereunder, to the extent that insurance proceeds would have been available had Landlord maintained such required property insurance), although Tenant shall in such events pay to Landlord the full amount of the deductible under Landlord's insurance policy (which deductible shall be commercially reasonable, based on the deductibles maintained by other institutional owners of commercial properties similar to the Project in the market in which the Project is located) and any amounts not required to be insured by Landlord under this Lease. This Lease shall continue in full force and effect without any abatement or reduction in Base Rent or Operating Expenses or other payments owed by Tenant.

(d) The provisions of this Paragraph 15 shall constitute Tenant's sole and exclusive remedy in the event of damage or destruction to the Premises or Project, and Tenant waives and releases all statutory rights and remedies in favor of Tenant in the event of damage or destruction. No damages, compensation or claim shall be payable by Landlord for any inconvenience, any interruption or cessation of Tenant's business, or any annoyance, arising from any damage or destruction of all or any portion of the Premises or Project.

16. **Condemnation.** If any part of the Premises or the Project should be taken for any public or quasi-public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "Taking" or "Taken", but, for avoidance of doubt, a Taking does not include a foreclosing on

security interests by a Financing Party (as defined below)), and (a) the Taking would prevent or materially interfere with Tenant's use of the Premises, (b) the Taking would materially interfere with or impair Landlord's ownership or operation of the Project or (c) as a result of such Taking, Landlord's mortgagee accelerates the payment of any indebtedness securing all or a portion of the Project, then upon written notice by Tenant, in the case of "(a)", or by Landlord, in the case of "(b)" or "(c)" this Lease shall terminate and Base Rent and Operating Expenses shall be apportioned as of said date. If part of the Premises shall be Taken, and this Lease is not terminated as provided above, the Base Rent and Operating Expenses payable hereunder during the unexpired Lease Term shall be reduced to such extent as may be fair and reasonable under the circumstances, and Landlord shall restore the Premises as near as reasonably attainable to its condition prior to the Taking; provided, however, Landlord's obligation to so restore the Premises shall be limited to the award Landlord receives in respect of such Taking that is not required to be applied to the indebtedness secured by a mortgage. In the event of any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant; provided, however, any award or portion thereof attributable to a Taking of Tenant's personal property shall be paid to Tenant. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recoverable by Tenant for moving expenses and damage to Tenant's Trade Fixtures, and keep the entirety of such award if a separate award for such items is made to Tenant. In addition, Tenant shall have the right to make a separate claim against the condemning authority (but not Landlord, except to the extent that Landlord's award includes amounts attributable to the Taking of Tenant's leasehold interest hereunder) for such compensation as may be separately awarded or recoverable by Tenant for the Taking of Tenant's leasehold interest hereunder, provided that any such award shall be shared equally between Landlord and Tenant (net of Tenant's actual and reasonable out-of-pocket expenses incurred in obtaining such award, including, without limitation, reasonable attorneys' fees). This paragraph shall be Tenant's sole and exclusive remedy in the event of any taking and Tenant hereby waives any rights and the benefits of any statute granting Tenant specific rights in the event of a Taking which are inconsistent with the provisions of this Paragraph.

17. Assignment and Subletting.

(a) Subject to Paragraphs 17(d) and (e) below, without Landlord's prior written consent, Tenant shall not assign this Lease or sublease the Premises or any part thereof or mortgage, pledge, or hypothecate its leasehold interest or grant any concession or license within the Premises (each being a "Transfer") and any attempt to do any of the foregoing shall be void and of no effect. For purposes of this Paragraph 17, a transfer of the controlling ownership interests in Tenant shall be deemed a Transfer of this Lease unless such ownership interests are publicly traded. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses in connection with any Transfer, other than to a Tenant Affiliate (as defined below), and shall provide Landlord an executed copy of Landlord's standard form of consent to assignment agreement, or consent to sublease agreement, as applicable, copies of which are attached to this Lease as Exhibit B (the "Consent to Assignment" and the "Consent to Sublease"). Subject to Paragraphs 17(d) and (e) below, Tenant acknowledges and agrees that Landlord may withhold its consent to any proposed assignment or subletting (for which Landlord's consent is required) for any reasonable basis including, but not limited to: (1) Tenant is in default of this Lease; (2) the assignee is unwilling to assume in writing all of Tenant's obligations hereunder (or the subtenant is unwilling to assume in writing all of such obligations to the extent applicable to the portion of the Premises to be sublet); (3) the assignee or subtenant has a financial condition which is reasonably unsatisfactory to Landlord or Landlord's mortgagee; (4) the Premises will be used for different purposes than those set forth in Paragraph 3(a) or for a use requiring or generating Hazardous Materials (in excess of those permitted under this Lease), or (5) the proposed assignee or subtenant or an affiliate thereof is an existing tenant in the Project or is or has been in discussions with Landlord regarding space within the Project within the preceding twelve (12) months.

(b) Notwithstanding any Transfer, Tenant and any guarantor or surety of Tenant's obligations under this Lease shall at all times remain fully responsible and liable for the payment of the rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such Transfer). In the event that the rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto) exceeds the rental payable under this Lease (net of Tenant's reasonable, documented out-of-pocket leasing costs including, without limitation, actual and reasonable attorneys' fees, free rent, moving expenses, improvement allowances, and any other economic incentives, and the cost of demising, renovating or otherwise

improving the space proposed to be sublet or assigned, and market commissions incurred in connection with the Transfer), then Tenant shall be bound and obligated to pay Landlord as additional rent hereunder fifty percent (50%) of such excess rental and other excess consideration within thirty (30) days following receipt thereof by Tenant. If such Transfer is for less than all of the Premises, such excess rental and other excess consideration shall be calculated on a rentable square foot basis.

(c) If this Lease is assigned or if the Premises is subleased (whether in whole or in part) or in the event of the mortgage, pledge, or hypothecation of Tenant's leasehold interest or grant of any concession or license within the Premises or if the Premises is occupied in whole or in part by anyone other than Tenant, then upon a default by Tenant hereunder Landlord may collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and, except to the extent set forth in the preceding subparagraph, apply the amount collected to the next rent payable hereunder; and all such rentals collected by Tenant shall be held in trust for Landlord and immediately forwarded to Landlord. No such transaction or collection of rent or application thereof by Landlord, however, shall be deemed a waiver of these provisions or a release of Tenant from the further performance by Tenant of its covenants, duties, or obligations hereunder. Any approved assignment or sublease shall be expressly subject to the terms and conditions of this Lease. Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers. Notwithstanding anything to the contrary contained in this Lease, if Tenant or any proposed transferee claims that Landlord has unreasonably withheld or delayed its consent under this Paragraph 17 or otherwise has breached or acted unreasonably under this Paragraph 17, their sole remedies shall be a declaratory judgment and an injunction for the relief sought without any monetary damages, and Tenant hereby waives all other remedies, including, without limitation, any right at law or equity to terminate this Lease, on its own behalf and, to the extent permitted under all applicable laws, on behalf of the proposed transferee.

(d) Landlord acknowledges and agrees that Tenant will be receiving financing or guarantees of financing pursuant to agreements with the U.S. Department of Energy or other federal agencies, the Oregon Department of Energy or other state agencies, and/or a local government entity or a non-governmental entity acting on behalf of such federal, state, or local government entities (each such entity, a "**Governmental Lender**"). Notwithstanding anything to the contrary in this Lease, no consent of Landlord shall be required for (i) Tenant's collateral assignment, mortgage, hypothecation, pledge or other encumbrance of its interests under this Lease in favor of a Governmental Lender (or the successors and assigns of such Governmental Lender or their respective successors and assigns) that provides financing or a guarantee of financing to Tenant or any of its subsidiaries (any such person or entity being a "**Financing Party**"), or (ii) any such Financing Party's foreclosure on such interests or any sale or transfer of such interests to any subsequent assignee in connection with the exercise of such Financing Party's rights and enforcement of its remedies under any applicable financing or security documents or under applicable law (provided that any such party must comply with all of the terms and conditions of this Lease). For the avoidance of doubt, a Financing Party shall not be required to execute Landlord's Consent to Assignment. Landlord further acknowledges and agrees that Tenant will be executing one or more leasehold deeds of trusts encumbering its interest under the Lease (as opposed to Landlord's interest in the Premises or Project) in favor of a Financing Party in substantially the form attached to this Lease as Exhibit E, subject to only such modifications that are reasonably required by a Financing Party to describe the nature of the financing in question (each a "**Leasehold Deed of Trust**"), and granting other security interests in any trade fixtures, inventory, equipment, vehicles, or other personal property of any type or kind located at or about the Project which is owned or leased by, or is otherwise under the care, custody or control of, Tenant or its agents, employees, contractors, or invitees ("**Tenant's Personal Property**"); provided, however, that no Leasehold Deed of Trust shall confer upon any Financing Party or Governmental Lender any right to use or access the Premises or the Project (or otherwise conduct activities upon or with respect to the Premises or the Project) beyond those granted to Tenant under this Lease. Landlord hereby consents to the granting by Tenant of the Leasehold Deed of Trust liens and of the security interests in Tenant's Personal Property. Landlord also acknowledges and agrees that, pursuant to such Leasehold Deed of Trust or in light thereof, the beneficiary under such Leasehold Deed of Trust and its successors and assigns shall have the right to foreclose pursuant to such Leasehold Deed of Trust and take over the Lease or take an assignment of the Lease in lieu of foreclosure or cause Tenant to assign the Lease to another party to be the "Tenant" under the Lease in lieu of foreclosure (which party shall be bound by all of the terms and conditions of this Lease including, without limitation, the obligation to provide a Letter of Credit in accordance with Paragraph 5 above). In such event, Landlord agrees to recognize the beneficiary under such Leasehold Deed of Trust or its successor or assign, or the assignee of the Tenant's rights and obligations under this Lease, as the "Tenant" under this Lease and shall not

disturb such "Tenant's" possession of the Premises so long as there is not an Event of Default and such party otherwise satisfies all of the obligations of the "Tenant" under this Lease (including, without limitation, the obligation to provide a Letter of Credit in accordance with Paragraph 5 above). In addition, Landlord acknowledges and agrees that Tenant may from time to time grant to the mortgagee or beneficiary under such Leasehold Deed of Trust and other parties providing credit to Tenant liens or other forms of security interests in Tenant's Personal Property. Upon the recordation of any Leasehold Deed of Trust with respect to this Lease in favor of a Financing Party, Tenant or such Financing Party shall give Landlord written notice of such recordation. Provided that Landlord has received such written notice, then from and after the date of such recordation to the date on which any such Leasehold Deed of Trust is reconveyed or otherwise removed from title or the obligations secured thereby are fully satisfied, such Financing Party's prior written consent to any amendment to this Lease (except for any amendment to the Rules and Regulations or to memorialize the exercise of an express right or option of Tenant under the Lease, such as a renewal option) shall be required, and no such amendment shall be effective until such Financing Party's consent is obtained. Upon the expiration or earlier termination of this Lease, Tenant will cause any instruments recorded against the Premises or Project to be removed from title (at Tenant's sole cost and expense), which obligation of Tenant shall survive the expiration or earlier termination of this Lease.

(e) Notwithstanding any of the provisions of this Paragraph 17 to the contrary, Tenant shall have the right to effect, and no consent of Landlord shall be required for the assignment of the Lease or a sublease of all or any portion of the Premises, in a transaction or series of transactions, to any of the following or in connection with any of the following (each assignee or subtenant, as applicable, a "Tenant Affiliate"): a purchaser or other transferee in connection with a transfer of the controlling ownership interests in Tenant or a merger or consolidation, or the sale or transfer of all or substantially all of the assets or stock of Tenant, or a reverse triangular merger or similar transaction involving Tenant, or an entity controlling, controlled by, or under common control with Tenant; provided further that such transactions are not a subterfuge to avoid Tenant's obligations under this Lease and the Tenant Affiliate shall have a net worth (calculated in accordance with generally accepted accounting principles consistently applied) sufficient to satisfy the obligations of the "Tenant" under this Lease (as reasonably determined by Landlord). Tenant shall give Landlord written notice of any transfer to a Tenant Affiliate at least ten (10) days prior to the effective date of such transfer, and Tenant shall provide Landlord with a Consent to Assignment or Consent to Sublease, as the case may be, that has been executed by Tenant and the Tenant Affiliate. Any assignment, sublease, or other transfer of this Lease (even to a Tenant Affiliate) shall in no way relieve Tenant of any liability Tenant may have under this Lease (except as may be agreed to by Landlord in writing in its sole and absolute discretion), and such assignee or sublessee shall be jointly and severally liable with Tenant hereunder. For the avoidance of doubt, Landlord's rights to share in any profit Tenant receives from a Transfer do not apply to a transfer pursuant to this Paragraph 17(e) or Paragraph 17(d) above.

18. Indemnification.

(a) Tenant agrees to indemnify, defend (with counsel reasonably acceptable to Landlord) and hold harmless Landlord, and Landlord's agents, employees and contractors, from and against any and all claims, demands, losses, liabilities, causes of action, suits, judgments, damages, costs and expenses (including attorneys' fees) (collectively, "Claims"), arising from any occurrence in or about the Premises or the Rooftop Premises (defined below), the use and occupancy of the Premises or the Rooftop Premises, or from any activity, work, or thing done, permitted or suffered by Tenant, its agents, employees, contractors, shareholders, partners, invitees, subtenants or assignees in or about the Premises or the Rooftop Premises or due to any other act or omission of Tenant, its subtenants, assignees, invitees, employees, contractors and agents, or from Tenant's failure to perform its obligations under this Lease (except to the extent caused by the negligence or willful misconduct of Landlord or its agents). This indemnity provision shall survive termination or expiration of this Lease. The furnishing of insurance required hereunder shall not be deemed to limit Tenant's obligations under this Paragraph 18.

(b) Landlord agrees to indemnify, defend (with counsel reasonably acceptable to Tenant) and hold harmless Tenant from and against any and all Claims caused by the gross negligence or willful misconduct of Landlord or Landlord's agents, employees or contractors. Notwithstanding the foregoing or anything to the contrary contained in this Lease, Landlord shall not be liable to Tenant, and Tenant hereby waives all Claims against Landlord (and the other parties indemnified by Tenant pursuant to Paragraph 18(a) above), for any damages arising from any act, omission or neglect of any other tenant in the Project and in no event shall Landlord (or any of the other indemnified parties) be liable for any injury or interruption to Tenant's business or any loss of income

therefrom under any circumstances and neither Landlord nor any of the other indemnified parties shall be liable for any indirect or consequential losses or damages suffered by Tenant.

19. **Inspection and Access.** Landlord and its agents, representatives, and contractors may enter the Premises at any reasonable time (upon not less than 24-hours advance oral or written notice, except in the event of an emergency in which case no notice shall be required) to inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. Landlord and Landlord's representatives may enter the Premises during business hours (upon not less than 24-hours advance oral or written notice) for the purpose of showing the Premises to prospective purchasers or, during the last year of the Lease Term, to prospective tenants. Landlord may erect a suitable sign on the Premises stating the Project is available for sale or, during the last year of the Lease Term, that Premises are available to let. Landlord may grant easements, make public dedications, designate common areas and create restrictions on or about the Premises, provided that no such easement, dedication, designation or restriction materially interferes with Tenant's use or occupancy of the Premises or materially and unreasonably increases Tenant's obligations, or materially and unreasonably decreases Tenant's rights, under this Lease; and at Landlord's request, and subject to Financing Parties' consents, Tenant shall execute such instruments as may be necessary for such easements, dedications or restrictions.

20. **Quiet Enjoyment.** If Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, any ground lease, mortgage or deed of trust now or hereafter encumbering the Premises and all matters of record, at all times during the Lease Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord, but not otherwise. This Paragraph 20 shall not limit Tenant's rights under Paragraph 27 or Paragraph 41 below (nor shall this Paragraph 20 affect the priority of this Lease with respect to any future encumbrances or matters of record).

21. **Surrender.** No act by Landlord shall be an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. Upon termination of the Lease Term or earlier termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord in the same condition as received, broom clean, ordinary wear and tear and casualty loss and condemnation covered by Paragraphs 15 and 16 excepted. Tenant shall meet with Landlord for a joint inspection of the Premises at the time of vacating. In the event of Tenant's failure to give such notice or to participate in such joint inspection, Landlord's inspection shall be deemed conclusive for purposes of determining Tenant's responsibility for repairs and restoration. No such performance by Landlord shall create any liability on the part of Landlord whatsoever. Any Trade Fixtures, Tenant-Made Alterations and property not so removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property. All obligations of Tenant hereunder not fully performed as of the termination of the Lease Term shall survive the termination of the Lease Term, including without limitation, indemnity obligations, payment obligations with respect to Operating Expenses and all obligations concerning the condition and repair of the Premises. If Tenant fails to perform any obligation prior to the expiration or earlier termination of this Lease, Landlord may, but shall not be obligated to, perform such obligation and Tenant shall pay Landlord all costs associated therewith, plus an administrative fee of 12% of such costs, promptly upon Landlord's delivery to Tenant of an invoice therefor.

22. **Holding Over.** If Tenant fails to vacate the Premises after the termination of the Lease Term, Tenant shall be, at Landlord's sole election, a tenant at will or at sufferance, and Tenant shall pay, in addition to any other rent or other sums then due Landlord, base rental equal to 150% of the Base Rent in effect on the expiration or termination date, computed on a monthly basis for each month or part thereof during such holdover, even if Landlord consents to such holdover (which consent shall be effective only if in writing). All other payments shall continue under the terms of this Lease. Tenant shall also be liable for all Operating Expenses incurred during such holdover period. In addition, Tenant shall be liable for all damages (including attorneys' fees and expenses) of whatever type (including consequential damages) incurred by Landlord as a result of such holding over. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided, and this Paragraph 22 shall not be construed as consent for Tenant to retain possession of the Premises.

23. **Events of Default.** Each of the following events shall be an event of default ("**Event of Default**") by Tenant under this Lease:

(a) Tenant shall fail to pay any installment of Base Rent or any other payment required herein when due, and such failure shall continue for a period of five (5) days following written notice that such amount is due.

(b) Tenant or any guarantor or surety of Tenant's obligations hereunder shall (1) make a general assignment for the benefit of creditors; (2) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "**proceeding for relief**"); (3) become the subject of any proceeding for relief which is not dismissed within sixty (60) days of its filing or entry; or (4) die or suffer a legal disability (if Tenant, guarantor, or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence (if Tenant, guarantor or surety is a corporation, partnership or other entity).

(c) Any insurance required to be maintained by Tenant pursuant to this Lease shall be canceled or terminated or shall expire or shall be reduced or materially changed, except, in each case, as permitted in this Lease.

(d) Intentionally Omitted.

(e) Tenant shall attempt or there shall occur any assignment, subleasing or other transfer of Tenant's interest in or with respect to this Lease except as otherwise permitted in this Lease.

(f) Tenant shall fail to discharge or bond over any lien placed upon the Premises in violation of this Lease within thirty (30) days after the date on which Tenant has actual notice of any such lien or encumbrance being filed against the Premises.

(g) Tenant shall fail to execute any instrument of subordination or attornment or any estoppel certificate within the time periods set forth in Paragraphs 27 and 29 respectively following Landlord's request for the same.

(h) Tenant shall breach any of the requirements of Paragraph 30 and such failure shall continue for a period of ten (10) days or more after notice from Landlord to Tenant; provided, however, that if Tenant is not able through the use of commercially reasonable efforts to cure such breach within such 10-day period, then Tenant's breach shall not constitute an Event of Default under this Paragraph 23(h) if Tenant commences to cure such breach within the 10-day period and thereafter diligently pursues the cure and effects the cure within a reasonable period of time.

(i) Tenant shall fail to comply with any provision of this Lease other than those specifically referred to in this Paragraph 23, and except as otherwise expressly provided herein, such default shall continue for more than thirty (30) days after Landlord shall have given Tenant written notice of such default; provided, however, that if Tenant is not able through the use of commercially reasonable efforts to cure such failure within such 30-day period, then Tenant's failure shall not constitute an Event of Default under this Paragraph 23(i) if Tenant commences to cure such failure within the 30-day period and thereafter diligently pursues the cure and effects the cure within a reasonable period of time that in no event exceeds an additional 60 days after the expiration of the initial 30-day period.

(j) The failure of Tenant or Tenant's employees, agents or representatives to observe or comply with any of the rules and regulations of the Project as the same may be amended from time to time, and such failure shall continue for five (5) days or more after written notice from Landlord to Tenant; provided, however, that if Tenant or Tenant's employees, agents or representatives shall breach the same rule or regulation more than two

(2) times in any twelve (12) month period, then the third (3rd) such violation shall be deemed an Event of Default (without any notice).

(k) Notwithstanding anything to the contrary in this Paragraph 23 or in any other Paragraph of this Lease, Landlord shall give any Financing Party (to the extent Tenant or the Financing Party have provided the identity and address of such Financing Party to Landlord in a written notice delivered pursuant to Paragraph 37(c) below) notice of any election by Landlord to terminate this Lease on account of a default by Tenant, and a period of 30 days to cure such default. If such default is cured by the applicable Financing Party within such 30 day period (in accordance with the terms and conditions of this Lease, including the payment of all amounts owned by Tenant, inclusive of late fees and interest on such amounts if applicable), then this Lease will not terminate on account of such default.

Any notices to be provided by Landlord under this Paragraph 23 shall be in lieu of, and not in addition to, any notice required under applicable Oregon law.

24. **Landlord's Remedies.** Upon the occurrence of any default, Landlord shall have the following rights and remedies, in addition to those allowed by law or in equity, any one or more of which may be exercised or not exercised without precluding the Landlord from exercising any other remedy provided in this Lease or otherwise allowed by law or in equity:

(a) **Termination of Lease.** Landlord may terminate this Lease and Tenant's right to possession of the Premises. If Tenant has abandoned and vacated the Premises, the mere entry of the Premises by Landlord in order to perform acts of maintenance, cure defaults, preserve the Premises or to attempt to relet the Premises, or the appointment of a receiver in order to protect the Landlord's interest under this Lease, shall not be deemed a termination of Tenant's right to possession or a termination of this Lease unless Landlord has notified Tenant in writing that this Lease is terminated. Notification of any default described in Paragraph 23 of this Lease shall be in lieu of, and not in addition to, any notice required under applicable Oregon law. If Landlord terminates this Lease and Tenant's right to possession of the Premises, Landlord may recover from Tenant:

(1) The worth at the time of the award of unpaid rent which had been earned at the time of termination; plus

(2) The worth at the time of the award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; plus

(3) The worth at the time of the award of the amount by which the unpaid rent for the balance of the Lease Term after the time of the award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; plus

(4) Any other amounts necessary to compensate the Landlord for all of the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including (but only to the extent the following costs and fees are reasonable) any legal expenses, brokers commissions or finders fees (in connection with reletting the Premises and the pro rata portion of any leasing commission paid by Landlord in connection with this Lease which is applicable to the portion of the Lease Term which is unexpired as of the date on which this Lease terminated), the costs of repairs, cleanup, refurbishing, removal and storage or disposal of Tenant's personal property, equipment, fixtures and anything else that Tenant is required under this Lease to remove but does not remove (including those alterations which Tenant is required to remove pursuant to an election by Landlord and Landlord actually removes whether notice to remove shall be delivered to Tenant), and any costs for alterations, additions and renovations incurred by Landlord in regaining possession of and reletting (or attempting to relet) the Premises.

All computations of the "worth at the time of the award" of amounts recoverable by Landlord under (1) and (2) hereof shall be computed by allowing interest at the lesser of (i) 12% per annum or (ii) the maximum lawful

contract rate per annum. The "worth at the time of the award" recoverable by Landlord under (3) and the discount rate for purposes of determining any amounts recoverable under (4), if applicable, shall be computed by discounting the amount recoverable by Landlord at the discount rate of the Federal Reserve Bank, San Francisco, California, at the time of the award plus one percent (1%).

Upon termination of this Lease, whether by lapse of time or otherwise, Tenant shall immediately vacate the Premises and deliver possession to Landlord, and Landlord shall have the right to re-enter the Premises.

In no event shall any personal liability be asserted by Landlord against Tenant's partners, shareholders, members, directors, employees or agents in connection with this Lease.

(b) **Lease to Remain in Effect.** Notwithstanding Landlord's right to terminate this Lease, Landlord may, at its option, even though Tenant has breached this Lease and abandoned the Premises, continue this Lease in full force and effect and not terminate Tenant's right to possession, and enforce all of Landlord's rights and remedies under this Lease. In such event, Landlord may continue the Lease in effect after Tenant's breach and abandonment and recover rent as it becomes due. Further, in such event Landlord shall be entitled to recover from Tenant all costs of maintenance and preservation of the Premises, and all costs, including attorneys' fees and receivers' fees, incurred in connection with appointment of and performance by a receiver to protect the Premises and Landlord's interest under this Lease. Neither re-entry or taking possession of the Premises by Landlord nor service of any notice permitted or required under applicable Oregon law shall be construed as an election to terminate this Lease unless a notice (signed by a duly authorized representative of Landlord) of intention to terminate this Lease is given to Tenant.

(c) **All Sums Collectible as Rent.** All sums due and owing to Landlord by Tenant under this Lease shall be collectible by Landlord as rent.

(d) **No Surrender.** No act or omission by Landlord or its agents during the Lease Term shall be an acceptance of a surrender of the Premises, and no agreement to accept a surrender of the Premises shall be valid unless made in writing and signed by a duly authorized representative of Landlord. Landlord shall be entitled to a restraining order or injunction to prevent Tenant from defaulting under any of its obligations other than the payment of rent or other sums due hereunder.

(e) **Effect of Termination.** Neither the termination of this Lease nor the exercise of any remedy under this Lease or otherwise available at law or in equity shall affect Landlord's right of indemnification set forth in this Lease or otherwise available at law or in equity for any act or omission of Tenant, and all rights to indemnification and other obligations of Tenant intended to be performed after termination of this Lease shall survive termination of this Lease.

25. **Tenant's Remedies/Limitation of Liability.**

(a) Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within thirty (30) days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of thirty (30) days, then after such period of time as is reasonably necessary). All obligations of Landlord hereunder shall be construed as covenants, not conditions; and Tenant may not terminate this Lease for breach of Landlord's obligations hereunder. Tenant hereby waives the benefit of any laws granting it the right to perform Landlord's obligations or the right to terminate this Lease or withhold rent on account of any Landlord default. All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. The term "Landlord" in this Lease shall mean only the owner, for the time being of the Premises, and in the event of the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, but such obligations shall be binding during the Lease Term upon each new owner for the duration of such owner's ownership. Any liability of Landlord (and its partners, shareholders or members) to Tenant (or any person or entity claiming by, through or under Tenant) for any default by Landlord under this Lease or arising out of the relationship between Landlord and Tenant shall be limited solely to Tenant's actual direct, but not consequential, damages therefor and shall be recoverable only from Landlord's equity interest in the Project, including any proceeds from the sale or financing of the Project (or any portion

thereof) and any insurance or condemnation proceeds. In no event shall any personal liability be asserted against Landlord, its partners, shareholders, members, directors, employees or agents in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord.

(b) Notwithstanding the foregoing, if Tenant provides written notice to Landlord of an event or circumstance which requires the action of Landlord with respect to repair and/or maintenance which Landlord is required to provide pursuant to this Lease, and Landlord fails to provide commence such action within thirty (30) days after the receipt of such notice (except in the event of an emergency with an imminent threat to the health or safety of Tenant's employees, or an imminent threat of substantial damage to Tenant's property, then within twenty four (24) hours), then Tenant shall give Landlord an additional five (5) Business Days' written notice (or twenty four (24) hours written notice in the case of such an emergency) specifying that Tenant is going to take such required action (which notice must describe in detail the action required of Landlord pursuant to this Lease, and state in the subject line in ALL CAPS the following, or a substantially similar statement: "YOUR ATTENTION IS REQUIRED, IF LANDLORD FAILS TO COMMENCE PERFORMANCE OF ITS OBLIGATIONS WITHIN [FIVE (5) BUSINESS DAYS] [TWO (2) BUSINESS DAYS] FOLLOWING THE DATE OF THIS NOTICE, TENANT SHALL EXERCISE ITS "SELF HELP" REMEDY PURSUANT TO THE LEASE.""). If Landlord has not commenced to repair such problem (or reasonably objected to the required action described in Tenant's notice) within such five (5) Business Day period (or two (2) Business Day period in the case of emergency) after the second written notice from Tenant (which notice must conform with the foregoing requirements), then Tenant shall have the right to perform the required action of Landlord, and Landlord shall reimburse Tenant for the actual and reasonable costs thereof (except to the extent Tenant would otherwise ultimately have been responsible for such costs under this Lease, including as an element of Operating Expenses) within thirty (30) days after presentation of a reasonably detailed invoice demonstrating the expenses incurred by Tenant. In the event Tenant takes such action, and such work will affect the structural integrity or exterior appearance of the Building, or materially affects the Building systems, Tenant shall use only those contractors used by Landlord in the Project for such work. All work performed by Tenant pursuant to this Paragraph 25(b) shall be subject to all of the terms and conditions of this Lease (including, without limitation, Paragraph 11 and Paragraph 12 above). In no event shall Tenant be entitled to offset any amounts owed by Landlord to Tenant under this Lease against Tenant's obligations to Landlord. Landlord shall diligently prosecute to completion any work that Landlord commences pursuant to this Paragraph 25(b).

26. Waiver of Jury Trial. TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

27. Subordination.

(a) Landlord agrees that simultaneously with Landlord's execution and delivery of this Lease, Landlord shall deliver to Tenant an original of the Governmental Lender's form of subordination and non-disturbance agreement attached hereto as Exhibit C, with only such modifications as are commercially reasonable and/or necessary to conform the language of such agreement to the type of encumbrance at issue (a "GL SNDA"), signed and notarized by authorized signatories of Landlord and ALLSTATE INVESTMENTS, LLC, a Delaware limited liability company. Upon written request of Tenant, Landlord will request that any future mortgage or lien holder with a security interest in the Premises execute and deliver the GL SNDA (subject only to such modifications as are commercially reasonable and/or necessary to conform the language of the GL SNDA to the type of encumbrance at issue).

(b) Subject to the terms of any applicable GL SNDA, this Lease and Tenant's interest and rights hereunder are and shall be subject and subordinate at all times to the lien of any deed of trust or mortgage or any ground lease, now existing on or against the Project or the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant. In addition, subject to Tenant's receipt of a GL SNDA and the terms thereof, this Lease and Tenant's interest and rights hereunder are and shall be subject and subordinate at all times to the lien of any deed of trust or mortgage or any ground lease, hereafter created on or against the Project or the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments

and extensions thereof, without the necessity of any further instrument or act on the part of Tenant. Tenant agrees, at the election of the holder of any such mortgage to which this Lease is subordinate, to attorn to any such holder, subject to the terms of any applicable GL SNDA. The provisions of this Paragraph 27 shall be self-operative and no further instrument shall be required to effect such subordination or attornment; however, Tenant agrees to execute, acknowledge and deliver such instruments, confirming such subordination, non-disturbance and attornment as shall be requested by any such holder within ten (10) days of such request, provided that any such instruments are in commercially reasonable form, contain commercially reasonable non-disturbance provisions, and any applicable Financing Parties (whose consent is required for Tenant to execute the same because of a written agreement between Tenant and such Financing Parties) have given their consent thereto, and are consistent with the applicable GL SNDA. Tenant's obligation to furnish each such instrument requested hereunder in the time period provided is a material inducement for Landlord's execution of this Lease and any failure of Tenant to timely deliver each instrument shall be deemed an Event of Default.

(c) Notwithstanding the foregoing, any such holder may at any time subordinate its mortgage to this Lease, without Tenant's consent, by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such mortgage without regard to their respective dates of execution, delivery or recording and in that event such holder shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution, delivery and recording of such mortgage and had been assigned to such holder. The term "mortgage" whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, and any reference to the "holder" of a mortgage shall be deemed to include the beneficiary under a deed of trust.

(d) Tenant shall not seek to enforce any remedy it may have for any default on the part of Landlord without first giving written notice by certified mail, return receipt requested, specifying the default in reasonable detail to any mortgage holder whose address has been given to Tenant, and affording such mortgage holder a reasonable opportunity to perform Landlord's obligations hereunder. Notwithstanding any such attornment or subordination of a mortgage to this Lease, the holder of any mortgage shall not be liable for any acts of any previous landlord, shall not be obligated to install any tenant improvements, and shall not be bound by any amendment to which it did not consent in writing nor any payment of rent made more than one month in advance.

(e) Upon written request of Tenant, Landlord shall use commercially reasonable efforts to cause any future holder of any mortgage or deed of trust against the Premises to execute and deliver the GL SNDA with only such modifications as are necessary to conform the language of the GL SNDA to the type of interest at issue.

28. Mechanic's Liens. Tenant has no express or implied authority to create or place any lien or encumbrance of any kind upon, or in any manner to bind the interest of Landlord or Tenant in, the Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold Landlord harmless from all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the interest of Landlord in the Premises or under this Lease. Tenant shall give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises and cause such lien or encumbrance to be discharged within thirty (30) days after the date on which Tenant has actual notice of the filing or recording thereof; provided, however, Tenant may contest such liens or encumbrances as long as such contest prevents foreclosure of the lien or encumbrance and Tenant causes such lien or encumbrance to be bonded or insured over in a manner satisfactory to Landlord within such thirty (30) day period. Without limiting any other rights or remedies of Landlord, if Tenant fails for any reason to cause a lien or encumbrance to be discharged within thirty (30) days after the date on which Tenant has actual notice of the filing or recording thereof, then Landlord may take such action(s) as it deems necessary to cause the discharge of the same (including, without limitation, by paying any amount demanded by the party who has filed or recorded such lien or encumbrance, regardless of whether the same is in dispute), and Landlord shall be reimbursed by Tenant for all costs and expenses incurred by Landlord in connection therewith within five (5) Business Days following written demand therefor. Notwithstanding anything to the contrary in the foregoing provisions, this Paragraph 28 does not prohibit liens or encumbrances on Tenant's leasehold interest or

personal property in favor of a Financing Party (to the extent such liens or encumbrances are otherwise permitted pursuant to, and in compliance with, the terms and conditions of this Lease).

29. **Estoppel Certificates.** Tenant agrees, from time to time, within ten (10) Business Days after request of Landlord, to execute and deliver to Landlord, or Landlord's designee, any estoppel certificate reasonably requested by Landlord, stating that this Lease is in full force and effect; the date to which rent has been paid; that Landlord is not in default hereunder (or specifying in detail the nature of Landlord's default), the termination date of this Lease and such other matters pertaining to this Lease as may be requested by Landlord. Tenant's obligation to furnish each estoppel certificate in a timely fashion is a material inducement for Landlord's execution of this Lease and any failure of Tenant to timely deliver each estoppel certificate shall be deemed an Event of Default. No cure or grace period provided in this Lease shall apply to Tenant's obligation to timely deliver an estoppel certificate. Landlord agrees, from time to time, within ten (10) Business Days after request of Tenant, to execute and deliver to Tenant, or Tenant's designee, any estoppel certificate reasonably requested by Tenant, stating that this Lease is in full force and effect, the date to which rent has been paid, that, to the actual knowledge of Landlord, Tenant is not in monetary default hereunder (or specifying in detail the nature of Tenant's monetary default), and the termination date of this Lease.

30. **Environmental Requirements.**

(a) Tenant has fully and accurately completed Landlord's Pre-Leasing Environmental Questionnaire ("**Environmental Questionnaire**") attached hereto as **Exhibit E** and incorporated herein by reference. Tenant hereby represents, warrants and covenants that except for those chemicals or materials, and their respective quantities listed on the Environmental Questionnaire, Tenant will not use, store or generate any "Hazardous Materials" (as defined below) in, on, under or about the Premises and/or Project without the prior written consent of Landlord (in Landlord's sole and absolute discretion). Tenant further represents, warrants and covenants that except for those chemicals and materials, and their respective quantities listed on the Environmental Questionnaire, Tenant shall not (without the prior written consent of Landlord, in Landlord's sole and absolute discretion) cause or permit any Hazardous Materials to be brought upon, placed, stored, manufactured, generated, blended, handled, recycled, disposed of, used or released on, in, under or about the Premises and/or Project by Tenant or its agents, employees, contractors, subcontractors, subtenants, assigns or invitees. Tenant shall keep, operate and maintain the Premises in full compliance with all Environmental Requirements (as defined below). Landlord represents to Tenant that, to the actual knowledge of Landlord, as of the date hereof, Landlord has not received written notice from any governmental authority with jurisdiction stating that the Premises are in violation of applicable Environmental Requirements, which violation has not been cured.

(b) The term "**Environmental Requirements**" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, permits, authorizations, orders, policies or other similar requirements of any governmental authority, agency, or court regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; the Clean Air Act; the Clean Water Act; the Toxic Substances Control Act, and all state and local counterparts thereto, and any common or civil law obligations including, without limitation, nuisance or trespass, and any other requirements of Paragraphs 3 and 31 of this Lease. The term "**Environmental Agency**" means any governmental authority, agency, or court regulating health, safety, or environmental conditions on, under, or about the Premises or the environment. The term "**Hazardous Materials**" means any explosive, radioactive materials, hazardous wastes, or hazardous substances, including without limitation asbestos containing materials, chlorinated solvents, polychlorinated biphenyls ("PCBs"), CFC's, or substances defined as "hazardous substances" or as "hazardous materials" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601-9657; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. Section 1801-1812; the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901-6987; or any other Legal Requirement regulating, relating to, or imposing liability or standards of conduct concerning any such hazardous materials or hazardous substances now or at any time hereafter in effect. For purposes of Environmental Requirements, to the extent authorized by law, Tenant is and shall be deemed to be the responsible party, including without limitation, the "owner" and "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Premises by Tenant, its agents, employees, contractors, or invitees, and the wastes, by-products, or residues generated, resulting, or produced therefrom.

(c) Without limiting the generality of Tenant's obligation to comply with laws as otherwise provided in this Lease, Tenant shall, at its sole cost and expense, comply with all present and future Environmental Requirements. Tenant shall obtain and maintain any and all necessary government permits, licenses, certifications, and approvals appropriate or required for the use, handling, storage, and disposal of any Hazardous Materials used, stored, generated, transported, handled, blended, or recycled by Tenant on the Premises or Project (and obtain official closure of all such permits, to the extent applicable; on or prior to the expiration or earlier termination of this Lease). Landlord shall have a continuing right, without obligation, to require Tenant to obtain, and to review and inspect any and all such permits, licenses, certifications, and approvals, together with copies of any and all Hazardous Materials management plans and programs, any and all Hazardous Materials risk management and pollution prevention programs, and any and all Hazardous Materials emergency response and employee training programs respecting Tenant's use of Hazardous Materials. Upon request of Landlord from time to time, Tenant shall deliver to Landlord, a narrative description explaining the nature and scope of Tenant's activities involving Hazardous Materials and showing to Landlord's reasonable satisfaction compliance with all Environmental Requirements and the terms of this Lease (and Tenant shall, upon request of Landlord from time to time, provide Landlord with an accurate inventory of all Hazardous Materials used, stored, or otherwise located within or about the Premises); provided, however, that Landlord shall not make such requests more than once in any 12-month period; provided further, that Landlord may make such requests following the occurrence (or reasonably suspected occurrence) of a material spill, discharge, leak, seep, or other release of any Hazardous Material on, under, from, or about the Premises, even if Landlord previously made such requests within 12 months of that occurrence (or reasonably suspected occurrence).

(d) Unless Tenant is required by law to give earlier notice to Landlord, Tenant shall notify Landlord in writing as soon as possible but in no event later than five (5) days after (1) the occurrence of any material spill, discharge, leak, seep or other release of any Hazardous Material on, under, from or about the Premises or Project, or (2) Tenant obtains actual knowledge (including by receipt of written notice) of any regulatory inquiries, inspections, investigations, directives, or any cleanup, compliance or abatement proceedings (including any threatened or potential investigations or proceedings), or claims by any third parties relating to any actual or reasonably suspected spill, discharge, leak, seep, or other release of Hazardous Materials in, on, under, from or about the Project or Premises, or any actual or reasonably suspected violation of Environmental Requirements at or about the Project or Premises by Tenant (or any agent, employee contractor, licensee or invitee of Tenant). Landlord shall have the right to appear at and participate in, any and all legal or other administrative proceedings concerning a spill, discharge, leak, seep, or other release of any Hazardous Materials on, under, from or about the Premises or Project.

(e) If any spill, discharge, leak, seep or any other release of any Hazardous Material on, under, from or about the Premises or Project shall occur, in addition to notifying Landlord as specified herein, Tenant, at its sole cost and expense, shall (1) comply with any and all reporting requirements imposed pursuant to any and all Environmental Requirements, (2) if a report is required to be made under applicable Environmental Requirements, provide a written certification to Landlord indicating that Tenant has complied with all such reporting requirements, (3) take any and all necessary investigation, corrective and remedial action in accordance with any and all applicable Environmental Requirements, utilizing an environmental consultant reasonably approved by Landlord, and (4) take any such additional investigative, remedial and corrective action as Landlord may reasonably determine to be necessary. Landlord may, as required by any and all Environmental Requirements, report the unauthorized spill, discharge, leak, seep, or other release of any Hazardous Material to the appropriate regulatory agencies identifying the Tenant as the responsible party. Unless prohibited by law, Tenant shall deliver to Landlord copies of all administrative orders, notices, demands, directives, or other written communications directed to Tenant from any Environmental Agency in respect of any spill, discharge, leak, seep or other release of any Hazardous Material on, under, from, or about the Premises or Project, together with copies of all investigation, assessment, and remediation plans and reports prepared by or on behalf of Tenant in response to any such regulatory order or directive that are delivered by or on behalf of Tenant to any Environmental Agency (including, without limitation, any Self Monitoring Reports associated with any wastewater treatment system).

(f) Landlord may separately engage its own environmental consultant or consultants to investigate a material spill, discharge, leak, seep, or other release of any Hazardous Material on, under, from, or about the Premises or Project, or a written notice of regulatory violations, investigations, or directives or any cleanup, compliance, or abatement proceedings by an Environmental Agency regarding Tenant's use, handling,

storage, or disposal of Hazardous Materials, and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred for such consultants. Landlord may, by written notice to Tenant, declare a material spill, discharge, leak, seep, or other release of any Hazardous Material on, under, from, or about the Premises or Project to be a default under this Lease by Tenant, which Tenant shall have the right to cure (within the time period set forth in Paragraph 23(h) above). Landlord may, by written notice to Tenant, declare any use, storage, handling, or disposal of Hazardous Materials on or about the Premises or Project in violation of the provisions of this Paragraph 30 in any material respect, to be a breach of this Lease by Tenant, which Tenant shall have the right to cure (within the time period set forth in Paragraph 23(h) above). Tenant shall not conduct any invasive environmental testing or investigation (including, without limitation, any testing of any soils) on or about the Project without obtaining Landlord's prior written consent (in Landlord's sole and absolute discretion), and any such testing or investigation shall be done pursuant to a work letter approved in writing by Landlord (which approval shall not be unreasonably withheld).

(g) Notwithstanding anything to the contrary contained herein, Landlord shall have the right (but not the obligation) to enter upon the Premises and cure any material non-compliance by Tenant with the terms of this Paragraph 30 or any Environmental Requirements or any material spill, discharge, leak, seep, or other release of any Hazardous Material on, under, from, or about the Premises or Project, and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred.

(h) Notwithstanding anything to the contrary herein (and without limiting any other rights of Landlord set forth herein), Landlord shall have the right to conduct annual, semi-annual, or quarterly inspections of the Premises, including inspections of the roof surface for indications of released product dusts from vent hoods, and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred.

(i) If any information provided to Landlord by Tenant on the Hazardous Materials List, or otherwise relating to information concerning Hazardous Materials is false, incomplete, or misleading in any material respect, the same shall be deemed an Event of Default by Tenant under this Lease.

(j) Upon termination of this Lease, Tenant, at its own cost and expense and in compliance with all Environmental Requirements, shall cause any and all Hazardous Materials stored on, under, upon or about the Premises or Project to be removed from the Premises. Upon prior notice and approval by the Landlord, Tenant shall, at its own cost and expense and in compliance with all Environmental Requirements, remove from the Premises and Project (or clean to the satisfaction of Landlord, if Landlord reasonably consents in advance to such cleaning in lieu of removal) any contaminated equipment, furnishings, and fixtures, including any and all Hazardous Materials storage containers and facilities.

(k) Without limiting in any manner Tenant's obligations under any other provision of this Lease, Tenant and its successors and assigns shall indemnify, protect, defend, and hold Landlord, its partners, officers, directors, shareholders, employees, agents, lenders, contractors, and each of their respective successors and assigns (collectively, the "Indemnified Parties") harmless from any and all claims, judgments, damages, penalties, enforcement actions, taxes, fines, remedial actions, liabilities, losses, costs, and expenses, including, without limitation, reasonable attorneys' fees, litigation, arbitration and administrative proceeding costs, expert and consultant fees, and laboratory costs, damages arising out of the diminution in the value of the Premises or Project or any portion thereof, damages for the loss of the Premises or Project, damages arising from a material adverse impact on the marketing of space in the Premises or Project, and sums paid in settlement of claims, which arise during or after the Lease Term in whole or in part as a result of the presence or reasonably suspected presence of any Hazardous Materials in, on, under, from, or about the Premises or the Project and/or other adjacent properties due to the activities, or failures to act (including, without limitation, Tenant's failure to comply with applicable Environmental Requirements to report a spill or release to the appropriate Environmental Agencies), of Tenant or its agents, employees, contractors, shareholders, partners, affiliates, consultants, customers, licensees, invitees, subtenants, or assignees (collectively with Tenant, "Tenant Parties"), on or about the Premises or Project. Notwithstanding anything to the contrary herein, Tenant shall not be responsible to indemnify landlord under this Paragraph 30, nor shall Tenant otherwise be liable under this Paragraph 30, for Hazardous Materials which (i) are present in, on, under, from, or about the Premises or the Project as of the date of this Lease, or (ii) are brought or released onto the Project by (x) Landlord, (y) the Indemnified Parties, or (z) tenants, subtenants, occupants, or invitees at the Project (or the respective agents, employees, contractors, shareholders, partners, affiliates,

consultants, customers, licensees, invitees, subtenants, or assignees of any of them) who are not Tenant Parties, or (iii) have migrated from locations outside of the Project, unless, and then only to the extent that, any of the foregoing Hazardous Materials stated in this sentence are exacerbated or disturbed as a result of any act or omission of a Tenant Party.

(l) Notwithstanding the foregoing or anything to the contrary herein (but without limiting the generality of any of the requirements set forth above), Tenant shall comply in all material respects with all of the following requirements at Tenant's sole cost and expense: (i) secondary containment shall be required for all Hazardous Materials in quantities of 55 gallons or greater that are not located in a H4 room; (ii) spill containment kits shall be maintained within the Premises at all times; (iii) all non-compatible Hazardous Materials shall be appropriately segregated at all times; (iv) Tenant shall employ Best Management Practices (BMP) in connection with the storage and use of Hazardous Materials and otherwise in connection with Tenant's operation from the Premises; (v) all flammable materials in quantities greater than 10 gallons shall be stored in appropriately rated flammable materials cabinets; (vi) all corrosives and caustics shall be appropriately separated; (vii) Tenant shall install (in accordance with Paragraph 12 above) vent hoods and scrubbers, when required by applicable Environmental Requirements, at any operational areas where solid Hazardous Materials are to be mixed into a solution (prior to any such mixing or related activities), and Best Available Control Technology (BACT) shall be employed for such scrubber systems; (viii) Tenant shall install (in accordance with Paragraph 12 above) epoxy sealant (including sealing any cracks, seams, and expansion joints as appropriate for the application of the epoxy sealant) on the floors of H4 rooms, as well as the floors of areas where plating occurs or bulk chemicals are stored to the extent such activities are conducted outside of H4 rooms; (ix) Tenant shall employ appropriate engineering controls designed to prevent a material release of Hazardous Materials from reaching nearby water bodies (including the slough to the east and the lake to the south of the Premises); and (x) in no event shall Tenant use, store, or otherwise handle any materials containing chlorinated solvents, PCBs, or radioactive materials.

(m) Tenant agrees and acknowledges that prior to entering or occupying the Premises, Tenant will perform, at Tenant's sole cost and expense, a Phase II Environmental Site Assessment ("Initial Phase II") with respect to the Premises (the exact scope of which shall be subject to Landlord's reasonable determination in advance), and (ii) on or around the date of expiration or earlier termination of this Lease, Tenant will, at Tenant's sole cost and expense, (x) perform an additional Phase II Environmental Site Assessment ("Additional Phase II") with respect to the Premises in areas where baseline sampling was previously performed for the Initial Phase II (the exact scope of which shall be subject to Landlord's reasonable determination in advance), and (y) perform wipe sampling ("Wipe Sampling") of all floor and wall surface areas (in a frequency of at least one wipe sample per 10,000 square feet of surface area for floors and walls), ventilation systems, and roof exhaust systems within the Premises, with laboratory analysis for total threshold limit concentrations for Cadmium, Copper, Selenium, and Chromium. If, following Landlord's review of the Additional Phase II and the Wipe Sampling, Landlord reasonably determines that additional testing and/or investigation is necessary to evaluate the environmental condition of the Premises, then Landlord may require Tenant, at Tenant's sole cost and expense, to perform additional testing and/or investigation. Without limiting the foregoing, Landlord may elect to perform any such additional testing and/or investigation, and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred. All elements of any such activities performed by or on behalf of Tenant (and any parties engaged to perform such activities) shall be subject to Landlord's prior written approval (which approval shall not be unreasonably withheld), and Tenant shall reimburse Landlord for its reasonable out-of-pocket expenses incurred for reviewing and monitoring such activities and/or proposed activities in connection therewith. Without limiting any other surrender obligations of Tenant, Tenant shall be responsible, at Tenant's sole cost and expense and to the reasonable satisfaction of Landlord, to remove and remediate any Hazardous Materials revealed by the Additional Phase II and/or the Wipe Sampling, to the extent that such Hazardous Materials resulted from, or were exacerbated by, Tenant Party's activities at the Premises; and Landlord shall have right to require additional Wipe Sampling (and/or other testing), at Tenant's sole cost and expense, until Landlord is reasonably satisfied that all such removal and remediation work has been completed. In addition to the foregoing, and without limiting any other surrender obligations of Tenant, Tenant shall, at Tenant's sole cost and expense, wash and HEPA vacuum the Premises or portions thereof, if reasonably required by Landlord based on the Wipe Sampling and/or testing results, and properly dispose of all Hazardous Materials (including providing Landlord copies of waste manifests documenting wash water/waste disposal).

31. Rules and Regulations. Tenant shall, at all times during the Lease Term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by Landlord

covering use of the Premises and the Project. The current rules and regulations are attached hereto. In the event of any conflict between said rules and regulations and other provisions of this Lease, the other terms and provisions of this Lease shall control. Landlord shall not have any liability or obligation for the breach of any rules or regulations by other tenants in the Project (provided that Landlord shall not enforce any rules or regulations in a discriminatory manner as between Tenant and any other tenants of the Project). Tenant shall not be required to comply with any ~~new rule or regulation unless the same applies non-discriminatorily to all occupants of the Project, does not~~ materially and unreasonably interfere with Tenant's permitted use of the Premises or Tenant's parking rights and does not materially and unreasonably increase the obligations or materially and unreasonably decrease the rights of Tenant under this Lease.

32. **Security Service.** Tenant acknowledges and agrees that, while Landlord may (but shall not be obligated to) patrol the Project, Landlord is not providing any security services with respect to the Premises and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises.

33. **Force Majeure.** Except for Tenant's monetary obligations under this Lease, Tenant's obligation to vacate and surrender the Premises upon the expiration or earlier termination of this Lease, and as otherwise provided in Paragraph 1(b) above, neither Landlord nor Tenant shall be held responsible for delays in the performance of their respective obligations hereunder when caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Landlord or Tenant, as applicable ("**Force Majeure**").

34. **Entire Agreement.** This Lease constitutes the complete and entire agreement of Landlord and Tenant with respect to the subject matter hereof. No representations, inducements, promises or agreements, oral or written, have been made by Landlord or Tenant, or anyone acting on behalf of Landlord or Tenant, which are not contained herein, and any prior agreements, promises, negotiations, or representations are superseded by this Lease. This Lease may not be amended except by an instrument in writing signed by both parties hereto.

35. **Severability.** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

36. **Brokers.** Tenant represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction, other than the broker(s), if any, set forth on the first page of this Lease (collectively, the "**Brokers**"), and Tenant agrees to indemnify and hold Landlord harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Tenant with regard to this leasing transaction. Landlord represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction, other than the Brokers, and Landlord agrees to indemnify and hold Tenant harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Landlord with regard to this leasing transaction. Landlord shall be responsible for compensating the Brokers pursuant to a separate written agreement.

37. **Miscellaneous.**

(a) Any payments or charges due from Tenant to Landlord hereunder shall be considered rent for all purposes of this Lease.

(b) If and when included within the term "Tenant," as used in this instrument, there is more than one person, firm or corporation, each shall be jointly and severally liable for the obligations of Tenant.

(c) All notices required or permitted to be given under this Lease shall be in writing and shall be sent by registered or certified mail, return receipt requested, or by a reputable national overnight courier service, with proof of delivery and postage prepaid, or by hand delivery and sent to the notice address for each party listed in the Basic Lease Provisions. Either party may by notice given aforesaid change its address for all subsequent notices. Except where otherwise expressly provided to the contrary, notice shall be deemed given upon delivery.

(d) Except as otherwise expressly provided in this Lease or as otherwise required by law, neither Landlord nor Tenant shall unreasonably withhold any consent or approval.

(e) At Landlord's request from time to time (but not more than once per year, except in connection with any actual or potential sale, financing or ground lease, in which event such once per year limitation shall not apply), Tenant shall furnish Landlord with true and complete copies of its most recent annual and quarterly financial statements prepared by Tenant or Tenant's accountants and any other financial information or summaries that Tenant typically provides to its lenders or shareholders. Such annual statements shall be audited by an independent certified public accountant at Tenant's sole cost and expense. Landlord shall hold such financial statements and information in confidence, and shall not disclose the same except: (1) to Landlord's lenders or potential lenders, (2) to potential purchasers of all or a portion of the Project, (3) to attorneys, accountants, consultants or other advisors, (4) otherwise as reasonably necessary for the operation of the Project or administration of Landlord's business, or (5) if disclosure is required by any judicial or administrative order or ruling.

(f) Except as expressly provided below in this Paragraph 37(f), neither this Lease nor a memorandum of lease shall be filed by or on behalf of Tenant in any public record. Provided that Tenant is not then in default hereunder, upon request by Tenant, Landlord shall execute, acknowledge and deliver to Tenant a memorandum of lease (in form acceptable to Landlord) to be recorded by Tenant, at Tenant's sole cost and expense, in the official records of the county in which the Premises is located. Notwithstanding the foregoing, prior to Landlord delivering any such memorandum of lease to Tenant, Tenant shall execute, acknowledge and deliver to Landlord, in recordable form, a memorandum of termination of lease, in such form as requested by Landlord, which memorandum of termination of lease Landlord agrees not to record until the expiration or earlier termination of the Lease (upon which event Landlord shall be authorized to record such memorandum of termination at Landlord's sole cost and expense).

(g) Each party acknowledges that it has had the opportunity to consult counsel with respect to this Lease, and therefore, the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto.

(h) The submission by Landlord to Tenant of this Lease shall have no binding force or effect, shall not constitute an option for the leasing of the Premises, nor confer any right or impose any obligations upon either party until execution of this Lease by both parties.

(i) Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.

(j) Any amount not paid by Tenant within five (5) days after its due date in accordance with the terms of this Lease shall bear interest from such due date until paid in full at the lesser of the highest rate permitted by applicable law or twelve percent (12%) per year. It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease. If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the

provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

(k) Construction and interpretation of this Lease shall be governed by the laws of the state in which the Project is located, excluding any principles of conflicts of laws.

(l) Time is of the essence as to the performance of each party's obligations under this Lease.

(m) All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. In the event of any conflict between such exhibits or addenda (other than the rules and regulations) and the terms of this Lease, such exhibits or addenda shall control. In the event of a conflict between the rules and regulations attached hereto and the terms of this Lease, the terms of this Lease shall control.

(n) In the event either party shall commence an action to enforce any provision of this Lease, the prevailing party in such action shall be entitled to receive from the other party, in addition to damages, equitable or other relief, any and all costs and expenses incurred, including reasonable attorneys' fees and court costs and the fees and costs of expert witnesses, and fees incurred to enforce any judgment obtained. This provision with respect to attorneys fees incurred to enforce a judgment shall be severable from all other provisions of this Lease, shall survive any judgment, and shall not be deemed merged into the judgment. Tenant shall also reimburse Landlord for all costs incurred by Landlord in connection with enforcing its rights under this Lease in a bankruptcy proceeding, or other proceeding under Title 11 of the United States Code, as amended, including without limitation, legal fees, experts' fees and expenses, court costs and consulting fees.

(o) There shall be no merger of the leasehold estate hereby created with the fee estate in the Premises or any part thereof if the same person acquires or holds, directly or indirectly, this Lease or any interest in this Lease and the fee estate in the leasehold Premises or any interest in such fee estate.

(p) To the extent Tenant or its agents or employees discover any water leakage, water damage or mold in or about the Premises or Project, Tenant shall promptly notify Landlord thereof in writing.

(q) Whenever Tenant requests Landlord to take any action not required of it hereunder or give any consent required or permitted under this Lease, Tenant will reimburse Landlord for Landlord's reasonable, out-of-pocket costs payable to third parties and incurred by Landlord in reviewing the proposed action or consent, including reasonable attorneys', engineers' or architects' fees, within 30 days after Landlord's delivery to Tenant of a statement of such costs. Tenant will be obligated to make such reimbursement without regard to whether Landlord consents to any such proposed action.

(r) Tenant and its telecommunications companies, including local exchange telecommunications companies and alternative access vendor services companies, shall have no right of access to and within the Building, for the installation and operation of telecommunications systems, including voice, video, data, Internet, and any other services provided over wire, fiber optic, microwave, wireless, and any other transmission systems ("**Telecommunications Services**"), for part or all of Tenant's telecommunications within the Building and from the Building to any other location without Landlord's prior written consent. All providers of Telecommunications Services shall be required to comply with the rules and regulations of the Building, applicable Legal Requirements and Landlord's policies and practices for the Building. Tenant acknowledges that Landlord shall not be required to provide or arrange for any Telecommunications Services and that Landlord shall have no liability to any Tenant-related party in connection with the installation, operation or maintenance of Telecommunications Services or any equipment or facilities relating thereto. Tenant, at its cost and for its own account, shall be solely responsible for obtaining all Telecommunications Services.

(s) Tenant (if a corporation, partnership or other business entity) hereby represents and warrants to Landlord that Tenant is and will remain during the Term a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Tenant has full right and authority to execute and deliver this Lease, that each person signing on behalf of Tenant is authorized to do so, and that Tenant's

organizational identification number assigned by the Oregon Secretary of State is 747784-90. Landlord hereby represents and warrants to Tenant that Landlord is a duly formed and existing entity qualified to do business in the state in which the Premises are located, that Landlord has full right and authority to execute and deliver this Lease, and that each person signing on behalf of Landlord is authorized to do so.

(t) Landlord and Tenant agree that all administrative fees and late charges prescribed in this Lease are reasonable estimates of the costs that Landlord will incur by reason of Tenant's failure to comply with the provisions of this Lease, and the imposition of such fees and charges shall be in addition to all of Landlord's other rights and remedies hereunder or at law, and shall not be construed as a penalty.

38. **Landlord's Lien/Security Interest.** Landlord shall have no security interest or lien on any item of Tenant's Personal Property. Within seven (7) days after Tenant's written request (provided that Tenant is not then in default under this Lease), Landlord shall provide its standard form of personal property lien subordination agreement (among Landlord, Tenant and any lender of Tenant with a security interest in Tenant's Personal Property), which standard form shall have commercially reasonable terms and shall be subject to commercially reasonable modifications as may be negotiated by the parties thereto. Landlord will execute such agreement following the reasonable approval as to the final form of such document by the parties, and the execution of the same by Tenant and such secured lender.

39. **Limitation of Liability of Landlord's Partners, and Others.** Tenant agrees that any obligation or liability whatsoever of Landlord which may arise at any time under this Lease, or any obligation or liability which may be incurred by Landlord pursuant to any other instrument, transaction, or undertaking contemplated hereby, shall not be personally binding upon, nor shall resort for the enforcement thereof be had to the property of the constituent partners of Landlord or any of their respective directors, officers, representatives, employees or agents, regardless of whether such obligation or liability is in the nature of contract, tort, or otherwise.

40. **Intentionally Omitted.**

41. **Easements; CC&R's.** Landlord reserves to itself the right, from time to time, to grant such easements, rights and dedications that Landlord deems necessary or desirable, and to cause the recordation of parcel maps, easement agreements and covenants, conditions and restrictions, so long as such easements, rights, dedications, maps and covenants, conditions and restrictions do not unreasonably interfere with the permitted use of the Premises by Tenant or otherwise materially and unreasonably increase Tenant's obligations or materially and unreasonably decrease Tenant's rights under this Lease. Tenant shall sign any of the aforementioned documents upon request of Landlord (provided that any such instruments are in commercially reasonable form and any applicable Financing Parties, whose consent is required for Tenant to execute the same because of a written agreement between Tenant and such Financing Parties, have given their consent thereto, and failure to do so shall constitute a material breach of this Lease.

42. **Option to Extend.** Landlord hereby grants to Tenant two (2) consecutive options to extend the Lease Term (each, an "**Option**"), each for a period of five (5) years (each five-year period, an "**Option Term**") commencing upon the expiration of the initial Lease Term, upon each of the following conditions and terms:

(a) Tenant shall give to Landlord, and Landlord shall actually receive, on a date which is at least two hundred seventy (270) days and not more than three hundred sixty (360) days prior to the then scheduled expiration date of the Lease Term, a written notice of Tenant's exercise of an Option (an "**Option Notice**"), time being of the essence. If an Option Notice is not timely so given and received, the Option, and any subsequent Option, shall automatically expire.

(b) Tenant shall have no right to exercise an Option, notwithstanding any provision hereof to the contrary, (i) during the time commencing from the date Landlord gives to Tenant a notice of default pursuant to this Lease and continuing until the noncompliance alleged in said notice of default is cured, or (ii) during the period of time commencing on the day after a monetary obligation to Landlord is due from Tenant and unpaid (without any necessity for notice thereof to Tenant) and continuing until the obligation is paid, or (iii) if, during the twelve (12) month period of time immediately prior to the time that Tenant attempts to exercise the Option, Landlord has given to Tenant one or more notices of default under this Lease, whether or not the defaults are cured, or Tenant has been

late on three or more occasions in the payment of a monetary obligation to Landlord (without any necessity for notice thereof to Tenant), or (iv) if Tenant has committed any non-curable breach, or is otherwise in default of any of the terms, covenants or conditions of this Lease.

(c) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Tenant's inability to exercise the Option because of the provisions of Paragraph 42(b) above.

(d) All Option rights of Tenant under this Paragraph 42 shall terminate and be of no further force or effect, notwithstanding Tenant's due and timely exercise of an Option, if, after such exercise, (i) Tenant fails to pay to Landlord a monetary obligation of Tenant for a period of ten (10) days after such obligation becomes due (without any necessity of Landlord to give notice thereof to Tenant), or (ii) Tenant fails to commence to cure any other default under this Lease within ten (10) days after the date that Landlord gives notice to Tenant of such default and/or Tenant fails thereafter to diligently prosecute said cure to completion within thirty (30) days after the date of such notice, or (iii) Landlord gives to Tenant one (1) or more notices of default under this Lease, or Tenant is late on one (1) or more occasions in the payment of a monetary obligation to Landlord (without any necessity of notice thereof to Tenant), whether or not the defaults are cured, or (iv) Tenant has committed any incurable breach, or is otherwise in default of any of the terms, covenants and conditions of this Lease.

(e) The Options granted to Tenant in this Lease may be exercised only by the original Tenant named in this Lease (the "Original Tenant"), any Tenant Affiliate to whom this Lease has been assigned, and any Financing Party to whom this Lease has been assigned (or such Financing Party's successors and assigns in the event of a foreclosure pursuant to such Financing Party's deed of trust or assignment of the Lease in lieu of foreclosure), and may not be exercised or be assigned, voluntarily or involuntarily, by or to any other person or entity. The Options herein granted are not assignable separate and apart from this Lease, nor may the Options be separated from this Lease in any manner, either by reservation or otherwise.

(f) All of the terms and conditions of this Lease except where specifically modified by this Paragraph 42 or as otherwise stated to be applicable only to the initial Lease Term shall apply during any extended Lease Term.

(g) The monthly Base Rent payable during any Option Term shall be equal to the then current fair market value for the Premises (excluding the value of any Tenant-Made Alterations). The then current fair market value for the Premises shall be determined as of the beginning of the Option Term, as follows:

(1) Promptly following receipt by Landlord of Tenant's Option Notice, Landlord and Tenant shall attempt to reach agreement on the Base Rent for the Option Term, which Base Rent shall be set at the then current fair market monthly rental value for the Premises. If Landlord and Tenant are able to agree on the Base Rent for the Option Term, Landlord and Tenant shall immediately execute an amendment to this Lease stating the Base Rent for the Option Term.

(2) If the parties are unable to agree on the Base Rent for the Option Term within forty-five (45) days following Landlord's receipt of an Option Notice, then each party, at its cost and by giving notice to the other party, shall have ten (10) days within which to appoint a licensed commercial real estate broker with at least seven (7) years experience in commercial leasing transactions in the market area in which the Premises are located, to determine and set the Base Rent for the Option Term at the then current fair market monthly rental value for the Premises for a term equal to the Option Term. If a party does not appoint such a broker within such ten (10) day period, the single broker appointed shall be the sole broker and shall set the Base Rent for the Option Term. If two brokers are appointed by the parties as stated in this paragraph, they shall meet promptly and attempt to set the Base Rent for the Option Term. If they are unable to agree within forty five (45) days after the second broker has been appointed, they shall attempt to select a third broker meeting the qualifications stated in this paragraph within ten (10) days after the last day the two brokers are given to set the Base Rent for the Option Term. If they are unable to agree on the third broker, either of the parties to this Lease, by giving ten (10) days notice to the other party, may apply to the presiding judge of the court of the County in which the Premises are located, for the selection of a third broker who meets the qualifications stated in this paragraph. Each of the parties shall bear the cost of its own broker and one-half (1/2) of the cost of appointing the third broker and of paying the third broker's

fee. The third broker, however selected, shall be a person who has not previously acted in any capacity for either party.

(3) Within twenty (20) days after the selection of the third broker, a majority of the brokers shall set the Base Rent for the Option Term. If a majority of the brokers are unable to agree upon the Base Rent within the stipulated period of time, the two closest market determinations shall be added together and their total divided by two, and the resulting quotient shall be the Base Rent for the Premises during such Option Term.

(h) If the Base Rent for an Option Term has not been determined by the commencement date of the Option Term, then until such Base Rent is determined, Tenant shall pay Base Rent to Landlord at the rate in effect immediately preceding the Option Term, and if the actual Base Rent for the Option Term is determined to be higher, then within fifteen (15) days after the determination of such higher Base Rent, Tenant shall pay to Landlord the difference for each month of the Option Term for which Base Rent has already become due.

43. **Right of First Offer.** Subject to the provisions of this Paragraph 43, effective during the initial Lease Term only, Landlord hereby grants the Original Tenant a one-time (subject to Paragraph 43(b) below) right of first offer to lease that certain space within the Project consisting of approximately 106,000 rentable square feet within the building located at 6204-6210 N. Marine Drive, Portland, Oregon (the "**First Offer Space**"), as such First Offer Space is depicted on **Exhibit A** attached hereto. Notwithstanding the foregoing, such first offer right of Tenant shall commence only following the expiration or earlier termination of the existing leases pertaining to the First Offer Space (collectively, the "**Superior Leases**"), including any renewals or extensions of such Superior Leases, whether or not such renewal or extension is pursuant to an express written provision in a Superior Lease or otherwise, and regardless of whether any such renewal is consummated pursuant to a lease amendment or a new lease.

(a) **Procedure for Offer.** Landlord shall notify Tenant ("**First Offer Notice**") on the first occasion during the initial Lease Term (if any) that Landlord determines that Landlord shall commence the marketing of the First Offer Space because the entirety of such First Offer Space shall become available for lease to third parties, where no tenant under a Superior Lease desires to lease such space. The First Offer Notice shall set forth Landlord's proposed material economic terms and conditions applicable to Tenant's lease of such space (collectively, the "**Economic Terms**"). Notwithstanding the foregoing, Landlord's obligation to deliver the First Offer Notice shall not apply during the last nine (9) months of the initial Lease Term.

(b) **Procedure for Acceptance.** If Tenant wishes to exercise Tenant's right of first offer with respect to the First Offer Space, then within five (5) Business Days after delivery of the First Offer Notice to Tenant, Tenant shall deliver an unconditional irrevocable notice to Landlord of Tenant's exercise of its right of first offer with respect to the entire First Offer Space, and the Economic Terms shall be as set forth in the First Offer Notice. If Tenant does not unconditionally exercise its right of first offer within the five (5) Business Day period, then Landlord shall be free to lease the space described in the First Offer Notice to anyone to whom Landlord desires on terms that have economic value equivalent to at least ninety-five percent (95%) of the economic value of the Economic Terms as offered to Tenant, and Tenant's right of first offer shall terminate as to the First Offer Space described in the First Offer Notice; provided, however, that if Landlord is unable to enter into a signed, binding lease agreement for the First Offer Space on such economic terms within six (6) months after the termination of Tenant's right of first offer under this Paragraph 43(b), then Tenant's first offer rights under this Paragraph 43 shall be reinstated, Landlord shall re-offer the space to Tenant on the same or different economic terms (and such terms shall thereafter be the "Economic Terms" for the purposes of this Paragraph 43) and Landlord and Tenant shall have their respective rights and duties under this Paragraph 43 with respect to such new offer. The foregoing process shall repeat itself until the First Offer Space is leased. Notwithstanding anything to the contrary contained herein, Tenant must elect to exercise its right of first offer, if at all, with respect to the entire First Offer Space, and not only a portion thereof.

(c) **Condition of First Offer Space.** Tenant shall take the First Offer Space in its "as-is" condition, and Tenant shall be entitled to construct improvements in the First Offer Space in accordance with the provisions of Paragraph 12 above.

(d) Lease of First Offer Space. If Tenant timely and properly exercises Tenant's right to lease the First Offer Space as set forth herein, Landlord and Tenant shall execute an amendment (on Landlord's form) adding such First Offer Space to the Lease upon the same non-economic terms and conditions as applicable to the Premises, and upon Landlord's Economic Terms. Unless otherwise specified in Landlord's Economic Terms, Tenant shall commence payment of rent for the First Offer Space and the Lease Term of the First Offer Space shall commence upon the date of delivery of such space to Tenant. The term of Tenant's lease of the First Offer Space shall expire concurrently with the term of Tenant's lease of the current Premises, unless otherwise specified in Landlord's Economic Terms.

(e) No Defaults. The rights granted to Tenant in this Paragraph 43 may be exercised only by the Original Tenant, any Tenant Affiliate to whom this Lease has been assigned, and any Financing Party to whom this Lease has been assigned (or such Financing Party's successors and assigns in the event of a foreclosure pursuant to such Financing Party's deed of trust or assignment of the Lease in lieu of foreclosure), and may not be exercised or be assigned, voluntarily or involuntarily, by or to any other person or entity. The rights granted to Tenant in this Paragraph 43 are not assignable separate and apart from this Lease, nor may they be separated from this Lease in any manner, either by reservation or otherwise. Neither Tenant (nor any Tenant Affiliate or Financing Party) shall have the right to lease First Offer Space as provided in this Paragraph 43 if, as of the date of the First Offer Notice, or, at Landlord's option, as of the scheduled date of delivery of such First Offer Space to Tenant, Tenant is in default under this Lease (which default has not been cured).

44. Option to Terminate.

(a) Subject to the terms and conditions set forth in this Paragraph 44, Tenant shall have the one-time option (the "Termination Option") to terminate this entire Lease (but not only a portion of this Lease), such termination to be effective as of the either (i) the last day of the thirty sixth (36th) full calendar month of the initial Lease Term (the "First Termination Date"), or (ii) the last day of the seventy second (72nd) full calendar month of the initial Lease Term (the "Second Termination Date"), but on no other date. The Termination Option shall be subject to the following terms and conditions (if the following terms and conditions are not timely and completely satisfied, then the Termination Option shall be null and void with no further force and effect):

(i) Tenant shall give Landlord written notice (the "Termination Notice") of Tenant's unconditional and irrevocable election to exercise the Termination Option at least two hundred seventy (270) days prior to the applicable Termination Date (i.e., either the First Termination Date or the Second Termination Date, as designated by Tenant in the Termination Notice), time being of the essence. The date so designated by Tenant in a timely delivered Termination Notice shall be referred to herein as the "Termination Date".

(ii) There shall exist no Event of Default under this Lease on the date Landlord receives the Termination Notice or on the Termination Date (provided that either of such conditions may be waived by Landlord in Landlord's sole and absolute discretion).

(iii) Concurrently with Tenant's delivery of the Termination Notice to Landlord, Tenant shall pay to Landlord an amount equal to the Termination Fee (as defined below) in immediately available funds. If Tenant does not timely pay any portion of the Termination Fee to Landlord as set forth herein, then, at Landlord's option, in addition to all other rights and remedies of Landlord, (x) the Termination Option (and Termination Notice) shall be null and void with no force and effect, and the Lease shall continue in full force and effect as if Tenant had not elected to terminate the Lease, and/or (y) Tenant shall be in material default under the Lease, without any notice and/or cure period, and Landlord may pursue all of its available rights and remedies in connection therewith. The "Termination Fee" shall be either (A) the amount of \$746,796.00 if the Termination Date is the First Termination Date, or (B) the amount of \$448,077.00 if the Termination Date is the Second Termination Date.

(b) In the event Tenant timely and properly exercises the Termination Option, the Lease Term shall terminate effective as of the Termination Date, Base Rent, Tenant's Proportionate Share of Operating Expenses and all other monetary obligations under this Lease shall be paid through and apportioned as of the Termination Date, and neither Landlord nor Tenant shall have any rights, liabilities or obligations accruing under

this Lease after the Termination Date, except for such rights and liabilities which, by the terms of this Lease are obligations of Tenant or Landlord which expressly survive the expiration of this Lease. The Termination Option shall automatically terminate and become null and void upon (i) the failure of Tenant to timely or properly exercise the Termination Option (unless such condition is waived in writing by Landlord in its sole and absolute discretion); or (ii) Tenant's right to possession of the Premises being terminated prior to the exercise of the Termination Option.

45. **Rooftop Premises.** Landlord hereby grants to Tenant the nonexclusive right (as between Landlord and Tenant) to occupy a portion of the roof of the Building, as designated by Landlord in Landlord's sole and absolute discretion (hereinafter called the "**Rooftop Premises**") so that Tenant may install, use, operate and maintain solar panels and related equipment, and satellite dishes (approximately 36" to 48" in diameter) and related equipment, together with an observation deck in order to view such solar panels and related equipment including, without limitation, an elevator from the Premises to such roof area (collectively, the "**Rooftop Equipment**") until the expiration or termination of the term of the Lease. Notwithstanding anything to the contrary set forth in this Paragraph 45, neither the Rooftop Equipment, nor any work or act in connection with the Rooftop Equipment, by or on behalf of Tenant may invalidate or otherwise materially adversely affect the warranty relating to the roof, unless otherwise specified by Landlord in writing in its sole and absolute discretion. The plans and specifications with respect to the Rooftop Equipment shall be subject to Landlord's prior written approval, which approval Landlord shall not unreasonably withhold. The Rooftop Equipment, and Tenant's use thereof, shall be in subject to the following additional conditions:

(a) The Rooftop Equipment shall be deemed to constitute Tenant-Made Alterations for all purposes under this Lease.

(b) Tenant shall reimburse Landlord for costs and expenses incurred by Landlord in connection with the Rooftop Equipment pursuant to the provisions of Paragraph 12(b) above. Notwithstanding the foregoing, Tenant shall immediately, at its sole cost and expense, repair any and all damage resulting from the presence and/or use of the Rooftop Equipment.

(c) The Rooftop Equipment shall be installed, used, operated and maintained solely on the Rooftop Premises and solely at the expense of Tenant. Tenant shall perform the erection and installation of the Rooftop Equipment in accordance with an installation program reasonably approved and supervised by Landlord or Landlord's contractor, and Tenant shall neither bring the Rooftop Equipment nor any associated equipment to the Premises or Rooftop Premises without first giving Landlord reasonable prior written notice of the date and time of the planned installation. Tenant shall ensure that the Rooftop Equipment shall in all cases be installed, used, operated, maintained and removed in compliance with the following requirements (all as reasonably determined by Landlord in its sole and absolute discretion): (i) the Rooftop Equipment shall not materially interfere in any way with the Building's existing engineering, window washing or other maintenance functions or duties; (ii) the Rooftop Equipment must be properly secured and installed so as not to be affected by high winds or other weather elements; (iii) the Rooftop Equipment must be properly grounded; (iv) the weight of the Rooftop Equipment shall not exceed the load limits of the Building; and (v) in no event shall the Rooftop Equipment or any appurtenant wiring or cable materially interfere with or otherwise materially adversely affect the electrical, mechanical, structural, life safety or other building systems of the Building. Tenant shall bear all costs and expenses in connection with the installation, use, operation, maintenance and removal of the Rooftop Equipment, including all costs relating to the repair of any damage to the roof or other parts of the Building caused directly or indirectly by any such installation, use, operation, maintenance or removal, including, without limitation, water damage or other damage resulting from weather elements.

(d) The installation of the Rooftop Equipment shall be performed by Tenant's contractor, as reasonably approved by Landlord (which contractor shall carry insurance reasonably acceptable to Landlord and provide to Landlord evidence of the same), and at Tenant's expense (or, at Landlord's option, by Landlord's contractor, at Tenant's expense). Tenant may not install the Rooftop Equipment in a manner that penetrates the roof membrane of the Building without Landlord's prior written consent (not to be unreasonably withheld). Without limiting Tenant's other obligations, Tenant shall reimburse Landlord for all reasonable costs associated with obtaining confirmation that Landlord's roof warranty will not be affected by any penetration. The installation of the Rooftop Equipment shall not (i) materially damage the Building or existing structures thereon or (ii) detract from the aesthetics or physical attractiveness of the Building, in the case of (i) and (ii) as reasonably determined by Landlord.

Landlord may obtain the services of a structural engineer to design any additional supports required to support the Rooftop Equipment, and to monitor the installation thereof, and subject to the provisions of Paragraph 12(b) above, Tenant shall reimburse Landlord, within thirty (30) days after receipt by Tenant of an invoice, and Tenant's receipt of reasonable supporting documentation, for Landlord's actual and reasonable cost of such services and such supports. The Rooftop Equipment shall remain the personal property of Tenant and shall be removed by Tenant prior to the expiration or earlier termination of this Lease, and Tenant shall repair any damage caused by the removal of the Rooftop Equipment and its associated wiring, cables and other components and immediately, at Tenant's sole cost and expense, restore the Rooftop Premises (and the Building) to the condition which existed prior to the installation of the Rooftop Equipment.

(e) Tenant hereby agrees that the Rooftop Premises shall be taken "as is", "with all faults", without any representations and warranties, and Tenant hereby agrees and warrants that it has investigated and inspected the condition of the Rooftop Premises and the suitability of same for Tenant's purposes.

(f) Tenant, at Tenant's sole cost and expense, will, at all times in connection with the installation, use, operation and maintenance of the Rooftop Equipment, comply with all Legal Requirements affecting the installation, use, operation and maintenance of the Rooftop Equipment, including, without limitation, applicable building and fire codes, and will comply with all requirements of the Federal Aviation Administration and Federal Communications Commission in respect thereof. Tenant, at Tenant's sole cost and expense, shall be obligated to secure and obtain and provide Landlord with copies of all required permits, approvals and licenses for or with respect to the installation or operation of the Rooftop Equipment prior to the commencement of any installation activities hereunder, and Tenant shall be obligated to keep in full force and effect and renew, as applicable, all required permits, approvals and licenses required hereunder. The use of the Rooftop Equipment by Tenant will be such as to not cause any interference (as defined by the engineering standards of the Federal Communications Commission) with communication receptions presently or hereafter located at or about the Building.

(g) During the entire period that the Rooftop Equipment is situated in the Rooftop Premises, Tenant agrees to maintain comprehensive general public liability insurance against all claims for bodily injury, death and property damage occurring in Premises and the area surrounding or in any way related to the Rooftop Equipment in the amounts and in accordance with the terms set forth in this Lease and as otherwise reasonably designated by Landlord; Tenant shall ensure that all insurance policies shall name Landlord and any other party reasonably designated by Landlord as additional insureds. Tenant shall pay, when due and after Landlord's demand, for the cost of any additional insurance incurred by Landlord or the increase in any premiums on insurance maintained by Landlord arising by reason of the erection or installation and maintenance of the Rooftop Equipment.

46. Representations of Contracting Party. Each of Landlord and Tenant (each a "Contracting Party") represents, on behalf of itself and only as to itself, that as of the date of this Lease:

(a) The Contracting Party is an entity duly organized and validly existing under the laws of the state of Delaware and is duly qualified to do business and is in good standing in the State of Oregon.

(b) The Contracting Party has the full power, authority and legal right to execute, deliver and perform its obligations under this Lease. The execution, delivery and performance by the Contracting Party of this Lease and the consummation of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate, shareholder, governmental or other necessary third party action. This Lease has been duly executed and delivered by the Contracting Party and constitutes the legal, valid and binding obligations of the Contracting Party, enforceable against the Contracting Party in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

(c) To the knowledge (without duty of investigation) of the Contracting Party, the execution, delivery and performance by the Contracting Party of this Lease does not and will not (1) require any consent or approval of the board of directors (or similar body) of the Contracting Party or any shareholder of the Contracting Party or of any other Person (as defined below) or entity which has not been obtained and each such consent or

approval that has been obtained is in full force and effect; (2) result in, or require the creation or imposition of any lien, security interest, charge or encumbrance upon or with respect to any of the assets or properties now owned or hereafter acquired by the Contracting Party, except with respect to the lien of any secured lender of Landlord or as contemplated in this Lease; (3) violate any provision of any law, rule, regulation, order, writ, judgment, decree, determination or award having applicability to the Contracting Party or any provision of the certificate of incorporation or bylaws or other constitutive documents of the Contracting Party; or (4) conflict with, result in a breach of, or constitute a default under, any provision of the certificate of incorporation, bylaws or other constituent documents or any resolution of the board of directors (or similar body) of the Contracting Party or any indenture or loan or credit agreement or any other agreement, lease or instrument to which it is a party or by which it or its properties and assets are bound or affected. "**Person**" means any individual, firm, corporation, company, voluntary association, partnership, limited liability company, joint venture, trust, unincorporated organization, governmental authority, committee, department, authority or any other body, incorporated or unincorporated, whether having distinct legal personality or not.

(d) Intentionally Omitted.

(e) To the knowledge (without duty of investigation) of the Contracting Party, there is no action, suit or proceeding at law or in equity by or before any governmental authority, arbitral tribunal or other body now pending or threatened in writing against the Contracting Party or any of its properties, rights or assets which (1) could reasonably be expected to have a material adverse effect on its ability to perform its obligations under this Lease; or (2) affects the validity, binding effect or enforceability of this Lease.

(f) To the knowledge (without duty of investigation) of the Contracting Party, the Contracting Party is in compliance with the Office of Foreign Assets Control, an agency of the U.S. Department of the Treasury under the auspices of the Under Secretary of the Treasury for Terrorism and Financial Intelligence ("**OFAC**") and all Corrupt Practices Laws (as defined below), in obtaining any consents, licenses, approvals, authorizations, rights, or privileges with respect to this Lease and, otherwise, are conducting all activities in connection with this Lease in compliance with OFAC and all applicable Corrupt Practices Laws. "**Corrupt Practices Laws**" means the Foreign Corrupt Practices Act of 1977 (Pub. L. No. 95 213, §§101 104), as amended, and any equivalent U.S. or foreign law.

(g) To the knowledge (without duty of investigation) of the Contracting Party, the Contracting Party is not a Prohibited Person (as defined below). "**Prohibited Person**" means any person or entity that is or has ever been (i) named, identified, or described on the list of "Specially Designated Nationals and Blocked Persons" (Appendix A to 31 CFR chapter V) as published by OFAC at its official website, <http://www.treas.gov/offices/enforcement/ofac/sdn/>, or at any replacement website or other replacement official publication of such list; (ii) named, identified or described on any other blocked persons list, designated nationals list, denied persons list, entity list, debarred party list, unverified list, sanctions list or other list of individuals or entities with whom United States persons may not conduct business, including lists published or maintained by OFAC, lists published or maintained by the U.S. Department of Commerce, and lists published or maintained by the U.S. Department of State; (iii) debarred or suspended from contracting with the United States Government or any agency or instrumentality thereof; (iv) debarred, suspended, proposed for debarment with a final determination still pending, declared ineligible or voluntarily excluded (as such terms are defined in any of the Debarment Regulations) from contracting with any United States federal government department or any agency or instrumentality thereof or otherwise participating in procurement or nonprocurement transactions with any United States federal government department or agency pursuant to any of the Debarment Regulations (as defined below); (v) indicted, convicted or had a governmental judgment rendered against it for any of the offenses listed in any of the Debarment Regulations; (vi) subject to United States or multilateral economic or trade sanctions in which the United States participates; (vii) owned or controlled by, or acting on behalf of, any governments, corporations, entities or individuals that are subject to United States or multilateral economic or trade sanctions in which the United States participates; and (viii) acted on behalf of any Person listed above or an affiliate of a Person listed above. "**Debarment Regulations**" means (x) the government-wide Debarment and Suspension (Non procurement) regulations (Common Rule), 53 Fed. Reg. 19161 (May 26, 1988); (y) Subpart 9.4 (Debarment, Suspension, and Ineligibility) of the Federal Acquisition Regulations, 48 C.F.R. 9.400 – 9.409; and (z) the revised Government wide Debarment and Suspension (Non procurement) regulations (Common Rule), 60 Fed. Reg. 33037 (June 26, 1995).

(h) To the knowledge (without duty of investigation) of the Contracting Party, the Contracting Party is in compliance with Executive Order No. 13,224, 66 Fed. Reg. 49,079 (2001), issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism) (the "Anti-Terrorism Order") and has not previously violated the Anti-Terrorism Order.

[Signatures on following page]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease and dated it as of the last date of the signatures set forth below.

TENANT:

SOLOPOWER, INC.,
a Delaware corporation,

By: **Ex. 6 PP / Ex. 7(C)**
Name:
Title:
Date: July 28, 2011

LANDLORD:

LIT INDUSTRIAL LIMITED PARTNERSHIP,
a Delaware limited partnership

By: LIT Holdings GP, LLC,
a Delaware limited liability company,
its sole general partner

By: Lion Industrial Properties, L.P.,
a Delaware limited partnership,
its sole member

By: LIT GP Sub, LLC,
a Delaware limited liability company,
its sole general partner

By: Lion Industrial Trust,
a Maryland real estate investment trust,
its sole member and manager

By: **Ex. 6 PP / Ex. 7(C)**
Name:
Title:
Date: 8/3/11

Ex. 6 PP / Ex. 7(C)

RULES AND REGULATIONS

In the event of a conflict between the following Rules and Regulations and the terms of the Lease to which this Addendum is attached, the terms of the Lease shall control.

1. The sidewalk, entries, and driveways of the Project shall not be obstructed by Tenant, or its agents, or used by them for any purpose other than ingress and egress to and from the Premises.
2. Except as expressly permitted under this Lease, Tenant shall not place any objects, including antennas, outdoor furniture, etc., in the parking areas, landscaped areas or other areas outside of its Premises, or on the roof of the Project.
3. Except for seeing-eye dogs, no animals shall be allowed in the offices, halls, or corridors in the Project.
4. Tenant shall not disturb the occupants of the Project or adjoining buildings by the use of any radio or musical instrument or by the making of loud or improper noises.
5. Intentionally Omitted.
6. Tenant shall not install or operate any steam or gas engine or boiler, or other mechanical apparatus in the Premises, except as specifically approved in the Lease. Explosives or other articles deemed extra hazardous shall not be brought into the Project.
7. Parking any type of recreational vehicles is specifically prohibited on or about the Project. Except for the overnight parking of operative vehicles or as expressly permitted in the Lease, no vehicle of any type shall be stored in the parking areas at any time. In the event that a vehicle is disabled, it shall be removed within 48 hours. There shall be no "For Sale" or other advertising signs on or about any parked vehicle. All vehicles shall be parked in the designated parking areas in conformity with all signs and other markings. Subject to Paragraph 14 of the Lease, all parking will be open parking, and no reserved parking, numbering or lettering of individual spaces will be permitted except as specified by Landlord.
8. Tenant shall not wash or service any vehicles in or about the Premises or the Project.
9. Tenant shall maintain the Premises free from rodents, insects and other pests.
10. Landlord reserves the right to exclude or expel from the Project any person who, in the judgment of Landlord, is intoxicated or under the influence of liquor or drugs or who shall in any manner do any act in violation of the Rules and Regulations of the Project.
11. Tenant shall not cause any unnecessary labor by reason of Tenant's carelessness or indifference in the preservation of good order and cleanliness. Landlord shall not be responsible to Tenant for any loss of property on the Premises, however occurring, or for any damage done to the effects of Tenant by the janitors or any other employee or person.
12. Tenant shall give Landlord prompt notice of any defects in the water, lawn sprinkler, sewage, gas pipes, electrical lights and fixtures, heating apparatus, or any other service equipment affecting the Premises.
13. Tenant shall not permit storage outside the Premises, including without limitation, outside storage of trucks and other vehicles, or dumping of waste or refuse or permit any harmful materials to be placed in any drainage system or sanitary system in or about the Premises.
14. All moveable trash receptacles provided by the trash disposal firm for the Premises must be kept in the trash enclosure areas, if any, provided for that purpose.

15. No auction, public or private, will be permitted on the Premises or the Project.
16. No awnings shall be placed over the windows in the Premises except with the prior written consent of Landlord.
17. The Premises shall not be used for lodging, sleeping or cooking or for any immoral or illegal purposes or for any purpose other than that specified in the Lease. No gaming devices shall be operated in the Premises.
18. Tenant shall ascertain from Landlord the maximum amount of electrical current which can safely be used in the Premises, taking into account the capacity of the electrical wiring in the Project and the Premises and the needs of other tenants, and shall not use more than such safe capacity. Landlord's consent to the installation of electric equipment shall not relieve Tenant from the obligation not to use more electricity than such safe capacity.
19. Tenant assumes full responsibility for protecting the Premises from theft, robbery and pilferage.
20. Tenant shall not install or operate on the Premises any machinery or mechanical devices of a nature not directly related to Tenant's ordinary use of the Premises and shall keep all such machinery free of vibration, noise and air waves which may be transmitted beyond the Premises.
21. Tenant shall not introduce, disturb or release asbestos or PCBs onto or from the Premises.
22. Tenant shall at all times conduct its operations in a good and workmanlike manner, employing best management practices to minimize the threat of any violation of Environmental Requirements.

EXHIBIT A

**PREMISES, OUTSIDE YARD AREA,
TENANT'S EXCLUSIVE PARKING AREA, AND FIRST OFFER SPACE**

[See Attached]

EXHIBIT A
Premises, Outside Yard Area, Tenant's Exclusive
Parking Area, and First Offer Space

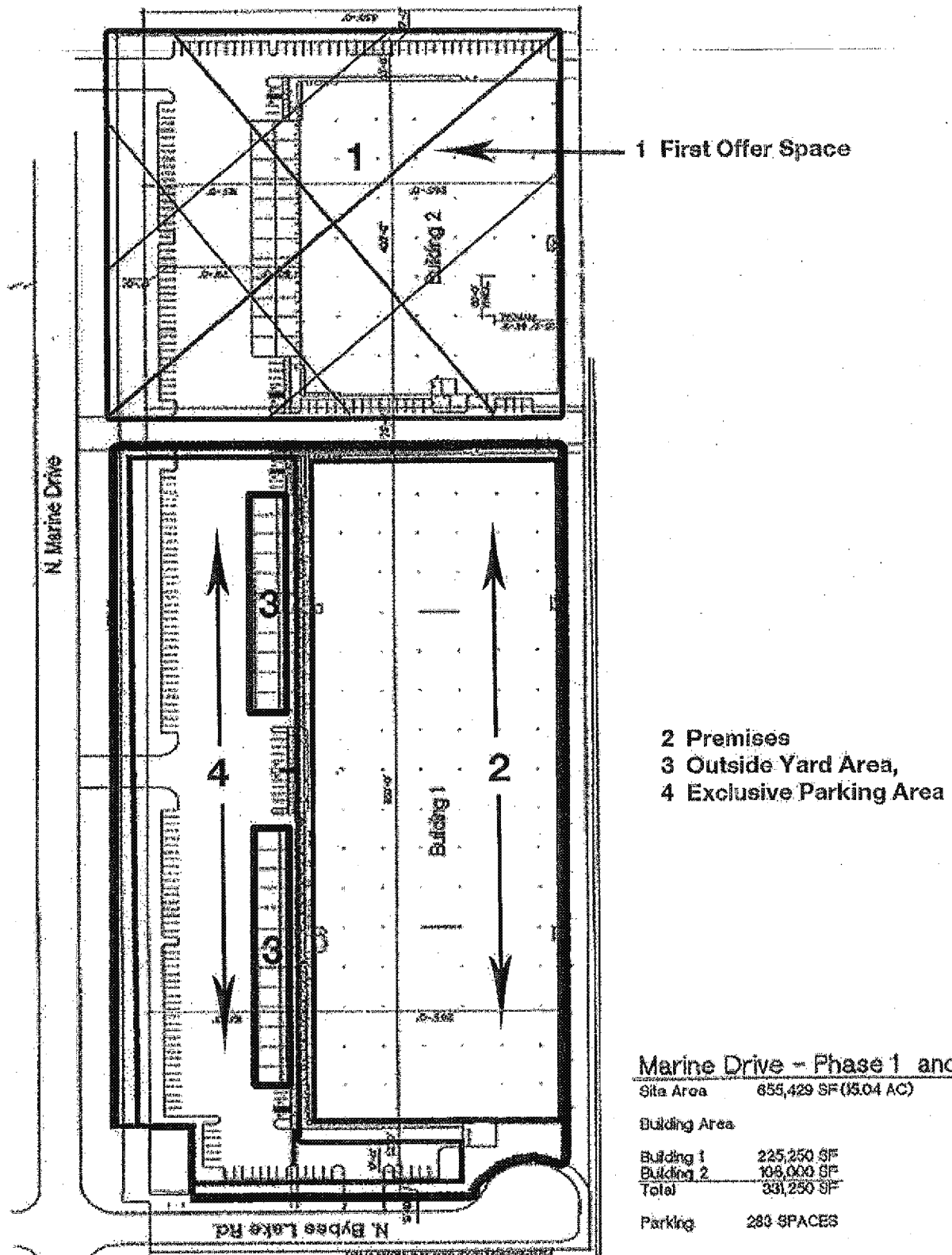


EXHIBIT B

**FORM OF CONSENT TO ASSIGNMENT AGREEMENT
AND FORM OF CONSENT TO SUBLEASE AGREEMENT**

[See Attached]

CONSENT TO ASSIGNMENT AGREEMENT

This Consent to Assignment Agreement (this "Agreement") is made as of _____, by and among _____ ("Landlord"), _____ ("Assignor"), and _____ ("Assignee").

RECITALS

A. Reference is hereby made to that certain _____ (the "Lease"), for certain space (the "Premises") located in that certain building whose address is 6308-6310 N. Marine Drive, Portland, Oregon, as more particularly described in the Lease.

B. Pursuant to the terms of the Lease, Landlord's consent to the proposed assignment to Assignee of Assignor's interest under the Lease is required, and Assignor has requested Landlord's consent to the assignment of the Lease from Assignor to Assignee and the assumption of the Lease by Assignee (the "Assignment"). Landlord is willing to consent to the Assignment, but only on the terms and conditions contained herein.

C. All defined terms not otherwise expressly defined herein shall have the respective meanings given in the Lease.

AGREEMENT

1. Landlord's Consent; Assumption. Landlord hereby consents to the Assignment; provided, however, such consent is granted by Landlord only upon the terms and conditions set forth in this Agreement. Landlord agrees that this Agreement shall be the only consent required by Landlord under the Lease to permit the Assignment; provided, however, that nothing contained herein shall limit Landlord's right to withhold or condition its consent to any other assignments of the Lease or any other matters for which Landlord's consent or approval is required under the Lease. Assignee hereby expressly assumes the Lease and agrees to be bound by and to perform and comply with, for the benefit of Landlord, each and every obligation of Assignor under the Lease. This Agreement shall not be construed to modify, waive or amend any of the terms, covenants and conditions of the Lease or to waive any breach thereof or any of Landlord's rights or remedies thereunder or to enlarge or increase any obligations of Landlord under the Lease. Any terms of the Assignment which are inconsistent with the terms of the Lease or this Agreement shall be of no force or effect.

2. Non-Release of Assignor; Further Transfers. Neither the Assignment nor this consent thereto shall release or discharge Assignor from any liability, whether past, present or future, under the Lease or alter the primary liability of Assignor to pay the rent and perform and comply with all of the obligations of the tenant to be performed under the Lease. Neither the Assignment nor this consent thereto shall be construed as a waiver of Landlord's right to consent to any further subletting by the Assignee or to any assignment by Assignee of its rights, title, interest and obligations under the Lease, or as a consent to any portion of the Premises being used or occupied by any other party. Assignor and Assignee shall be jointly and severally liable under the Lease and this Agreement. Landlord may consent to subsequent sublettings and assignments of the Lease or any amendments or modifications thereto without notifying Assignor nor anyone else liable under the Lease and without obtaining their consent (provided, however, that Assignor shall only be liable with respect to the terms of any such subsequent transaction, amendment or modification if it receives written notice of the same; provided, further that Assignor shall remain liable for the same so long as it receives such written notice without any requirement for consent or approval).

3. Representations and Warranties. Assignor hereby covenants, represents and warrants to Landlord as follows:

- (a) Assignor has full right and authority to assign its interest to Assignee; and
- (b) Except for this Agreement and [IF APPLICABLE, IDENTIFY ANY SUBLEASES OR ASSIGNMENTS ENTERED INTO IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE LEASE], no other transfer or assignment of the Lease or Premises or subletting of the Premises or any part thereof has been previously made by Assignor.

4. General Provisions.

4.1 Brokerage Commission. Assignor and Assignee covenant and agree that under no circumstances shall Landlord be liable for any brokerage commission or other charge or expense in connection with the Assignment and/or this Agreement and Assignor and Assignee agree to protect, defend, indemnify and hold Landlord harmless from the same and from claims, liabilities, costs and expenses (including, but not limited to, attorney's fees) incurred by Landlord in resisting any claim for any such brokerage commission, charge or expense.

4.2 Security Deposit. Assignor hereby transfers to Assignee Assignor's interest in any security deposit given to Landlord under the Lease. Assignor hereby assigns to Assignee any claims against Landlord with respect to any such security deposit. Assignee shall protect, indemnify, defend and hold Landlord harmless from and against any claims Assignor may raise against Landlord with respect to any such security deposit.

4.3 Controlling Law. The terms and provisions of this Agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

4.4 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their permitted heirs, successors and assigns. As used herein, the singular number includes the plural and the masculine gender includes the feminine and neuter.

4.5 Estoppel. Assignor warrants, represents and certifies to Landlord that to Assignor's current actual knowledge as of the date of this Agreement: (a) Landlord is not in default under the Lease; and (b) Assignor does not have any defenses or offsets to payment of rent and performance of its obligations under the Lease as and when same become due.

4.6 Captions. The paragraph captions utilized herein are in no way intended to interpret or limit the terms and conditions hereof; rather, they are intended for purposes of convenience only.

4.7 Partial Invalidity. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent possible permitted by law.

4.8 Attorney's Fees. If either party commences litigation against the other for the specific performance of this Agreement, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder, the parties hereto agree to and hereby do waive any right to a trial by jury and, in the event of any such commencement of litigation, the prevailing party shall be entitled to recover from the other party such costs and reasonable attorneys' fees as may have been incurred.

4.9 Landlord's Costs. Assignor and Assignee shall be jointly and severally liable to reimburse Landlord, upon demand, for costs and reasonable attorney's fees incurred by Landlord in connection with this Agreement and Landlord's consent to the Assignment (upon the terms and conditions set forth in this Agreement).

4.10 Facsimile. Each party hereto shall be authorized to rely upon the signatures of all of the parties hereto on this Agreement which are delivered by facsimile as constituting a duly authorized, irrevocable, actual delivery of this Agreement with original ink signatures of each person and entity.

4.11 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

4.12 Authority. The individuals executing this Amendment on behalf of Landlord, Assignor and Assignee, and Landlord, Assignor and Assignee, hereby represent and warrant to each of the other parties that Landlord, Assignor and Assignee each have full power and authority to enter into this Agreement and the persons signing on behalf of Landlord, Assignor and Assignee have been fully authorized to do so by all necessary action on the part of such parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Consent to Assignment Agreement as of the day and year first above written.

"Landlord"

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

"Assignor"

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

"Assignee"

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

CONSENT TO SUBLEASE AGREEMENT

THIS CONSENT TO SUBLEASE AGREEMENT (this "Agreement") is made as of _____, by and among, _____, a _____ ("Landlord"), _____, a _____ ("Tenant"), and _____, a _____ ("Subtenant").

RECITALS:

A. Reference is hereby made to that certain _____, between Landlord and Tenant (as the same may be amended, the "Lease") for premises consisting of approximately 225,250 rentable square feet and commonly known as 6308-6310 N. Marine Drive, Portland, Oregon (the "Premises"), as more particularly described in the Lease.

B. Pursuant to the terms of Paragraph 17 of the Lease, Tenant has requested Landlord's consent to that certain _____, dated _____ between Tenant and Subtenant (the "Sublease"), with respect to a subletting by Subtenant from Tenant of [the Premises] [a portion of the Premises], as more particularly described in the Sublease (the "Sublet Premises"). A copy of the Sublease is attached hereto as Exhibit "A". Landlord is willing to consent to the Sublease on the terms and conditions contained herein.

C. All defined terms not otherwise expressly defined herein shall have the respective meanings given in the Lease.

AGREEMENT:

1. **Landlord's Consent.** Landlord hereby consents to the Sublease; provided however, notwithstanding anything contained in the Sublease or this Agreement to the contrary, such consent is granted by Landlord only upon the terms and conditions set forth in this Agreement. The Sublease is subject and subordinate to the Lease, Subtenant shall not violate any of the terms of the Lease, and Subtenant shall comply with all provisions of the Lease to the extent incorporated into the Sublease. Landlord shall not be bound by any of the terms, covenants, conditions, provisions or agreements of the Sublease. Nothing contained in this Agreement shall: (a) be construed to modify, waive or affect (i) any of the provisions, covenants or conditions in the Lease, (ii) any of the obligations of the tenant under the Lease, or (iii) any rights or remedies of Landlord under the Lease or to enlarge or increase Landlord's obligations or the rights of the tenant under the Lease; and/or (b) be construed to waive any past, present or future breach or default on the part of Tenant or Subtenant under the Lease. No modifications may be made to the Sublease without Landlord's prior written consent (which consent shall not be unreasonably withheld). In case of any conflict between the provisions of this Agreement and the provisions of the Sublease, the provisions of this Agreement shall prevail unaffected by the Sublease.

2. **Non-Release of Tenant; Further Transfers.** Neither the Sublease nor this consent thereto shall release or discharge Tenant from any liability, whether past, present or future, under the Lease or alter the primary liability of the Tenant to pay the rent and perform and comply with all of the obligations of Tenant to be performed under the Lease (including, without limitation, the payment of all bills rendered by Landlord for charges incurred by Subtenant for services and materials supplied to the Sublet Premises). Neither the Sublease nor this consent thereto shall be construed as a waiver of

Landlord's right to consent to any further subletting either by Tenant or by the Subtenant or to any assignment by Tenant of the Lease or assignment by the Subtenant of the Sublease, or as a consent to any portion of the Sublet Premises being used or occupied by any other party. Landlord may consent to subsequent sublettings and assignments of the Lease or the Sublease or any amendments or modifications thereto without notifying Tenant or Subtenant nor anyone else liable under the Lease and without obtaining their consent. No such action by Landlord shall relieve such persons from any liability to Landlord or otherwise with regard to the Sublet Premises.

3. **Relationship With Landlord.** Tenant hereby assigns and transfers to Landlord Tenant's interest in the Sublease and all rentals and income arising therefrom, subject to the terms of this Section 3. Landlord, by consenting to the Sublease agrees that until a default shall occur in the performance of Tenant's obligations under the Lease, and subject to any payments due Landlord under Paragraph 17(b) of the Lease (for excess rental and other excess consideration, as described in such Paragraph 17(b)) and/or other amounts to which Landlord is entitled under the Lease, Tenant may receive, collect and enjoy the rents accruing under the Sublease. In the event Tenant shall default in the performance of its obligations to Landlord under the Lease (whether or not Landlord terminates the Lease), Landlord may, at its option (in its sole and absolute discretion) by notice to Tenant, to (i) terminate the Sublease, (ii) elect to receive and collect, directly from Subtenant, all rent and any other sums owing and to be owed under the Sublease, as further set forth in Section 3.1 below, and/or (iii) elect to succeed to Tenant's interest in the Sublease and cause Subtenant to attorn to Landlord, as further set forth in Section 3.2 below.

3.1 **Landlord's Election to Receive Rents.** Landlord shall not, by reason of the Sublease, the collection of rents or any other sums from the Subtenant or otherwise, be deemed liable to Subtenant for any failure of Tenant to perform and comply with any obligation of Tenant. Tenant hereby irrevocably authorizes and directs Subtenant, upon receipt of any written notice from Landlord stating that a default exists in the performance of Tenant's obligations under the Lease, to pay to Landlord the rents and any other sums due and to become due under the Sublease. Tenant agrees that Subtenant shall have the right to rely upon any such statement and request from Landlord, and that Subtenant shall pay any such rents and any other sums to Landlord without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Tenant to the contrary. Tenant shall not have any right or claim against Subtenant for any such rents or any other sums so paid by Subtenant to Landlord. Landlord shall credit Tenant with any rent received by Landlord under such assignment but the acceptance of any payment on account of rent or any other amount from Subtenant as the result of any such default or otherwise shall in no manner whatsoever be deemed an attornment by the Landlord to Subtenant or by Subtenant to Landlord, be deemed a waiver by Landlord of any provision of the Lease or serve to release Tenant from any liability under the terms, covenants, conditions, provisions or agreements under the Lease. Notwithstanding the foregoing, any other payment of rent or other amounts from Subtenant directly to Landlord, regardless of the circumstances or reasons therefor, shall in no manner whatsoever be deemed an attornment by Subtenant to Landlord in the absence of a specific written agreement signed by Landlord to such an effect.

3.2 **Landlord's Election of Subtenant Attornment.** In the event Landlord elects, at its option (in its sole and absolute discretion), to cause Subtenant to attorn to Landlord, Subtenant shall immediately attorn to Landlord under the terms of the Sublease, Landlord shall undertake the obligations of Tenant under the Sublease from the time of the exercise of the option, but Landlord shall not (i) be liable for any prepayment of rent, any security deposit paid by Subtenant or any other amount paid by Subtenant to Tenant, (ii) be liable for any improvement allowances, contributions, disbursements, abatement and/or other amounts and/or concessions to be paid and/or provided by Tenant to Subtenant,

(iii) be liable for any previous act or omission of Tenant under the Lease and/or the Sublease (including, without limitation, any default by Tenant), (iv) be subject to any defenses or offsets previously accrued which Subtenant may have against Tenant, or (v) be bound by any changes or modifications made to the Sublease without the written consent of Landlord.

4. General Provisions.

4.1 Consideration for Sublease.

(a) Landlord's consent under this Agreement is conditioned upon the delivery to Landlord of a fully executed written Sublease. Additionally, Tenant shall, within ten (10) days after demand by Landlord, reimburse Landlord for Landlord's reasonable attorneys' fees incurred in connection with processing the proposed Sublease and preparing this Agreement.

(b) Tenant and Subtenant represent and warrant that there are no additional payments of rent or any other consideration of any type payable by Subtenant to Tenant with regard to the Sublet Premises other than as disclosed in the Sublease.

4.2 Brokerage Commission. Tenant and Subtenant covenant and agree that under no circumstances shall Landlord be liable for any brokerage commission or other charge or expense in connection with the Sublease and Tenant and Subtenant agree to protect, defend, indemnify and hold Landlord harmless from the same and from any cost or expense (including but not limited to reasonable attorneys' fees) incurred by Landlord in resisting any claim for any such brokerage commission.

4.3 Recapture. This consent shall in no manner be construed as limiting Landlord's ability to exercise its rights, if any, to recapture any portion of the Premises as set forth in the Lease, in the event of a proposed future sublease, assignment or other transfer of the Lease, Sublease and/or any portion of the Premises.

4.4 Controlling Law. The terms and provisions of this Agreement shall be construed in accordance with and governed by the laws of the State of Oregon.

4.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns. As used herein, the singular number includes the plural and the masculine gender includes the feminine and neuter.

4.6 Estoppel. Tenant warrants, represents and certifies to Landlord that to Tenant's current actual knowledge as of the date of this Agreement: (a) Landlord is not in default under the Lease; and (b) Tenant does not have any defenses or offsets to payment of rent and performance of its obligations under the Lease as and when same become due.

4.7 Captions. The paragraph captions utilized herein are in no way intended to interpret or limit the terms and conditions hereof; rather, they are intended for purposes of convenience only.

4.8 Partial Invalidity. If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby; and each and every other term,

provision and condition of this Agreement shall be valid and enforceable to the fullest extent possible permitted by law.

4.8 Attorneys' Fees. If either party commences litigation against the other for the specific performance of this Agreement, for damages for the breach hereof or otherwise for enforcement of any remedy hereunder, the parties hereto agree to and hereby do waive any right to a trial by jury and, in the event of any such commencement of litigation, the prevailing party shall be entitled to recover from the other party such costs and reasonable attorneys' fees as may have been incurred.

4.9 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original part and all of which together shall constitute a single agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Consent to Sublease Agreement as of the day and year first above written.

“Landlord”:

a _____

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

“Tenant”:

a _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

“Subtenant”:

a _____

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

EXHIBIT "A"

SUBLEASE

[See Attached]

EXHIBIT C

FORM OF GOVERNMENTAL LENDER SUBORDINATION AND NON-DISTURBANCE AGREEMENT

[See Attached]

Recorded at Request of:

When Recorded Mail to:

Loan No. _____

SUBORDINATION.

NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, made as of _____, 20__, by and among LIT INDUSTRIAL LIMITED PARTNERSHIP, a Delaware limited partnership ("Borrower"), ALLSTATE INVESTMENTS, LLC, a Delaware limited liability company, as agent and investment manager for one or more of its affiliated insurance companies ("Lender"), and SOLOPOWER, INC., a Delaware corporation ("Tenant"),

WITNESSETH:

Recital of Facts:

Borrower has applied to Lender for a loan that will be secured by a Deed of Trust, Assignment of Rents and Security Agreement (the "Deed of Trust") from Borrower, as trustor, for Lender, as beneficiary, to be recorded in the Official Records of Multnomah County, Oregon. The Deed of Trust will encumber the real property in the City of Portland and County of Multnomah, Oregon, commonly known as 6308-6310 N. Marine Drive, Portland, Oregon, which is described in Exhibit A attached hereto and made a part hereof (the "Property"). Tenant is the tenant under the Lease (the "Lease") dated July __, 2011, between Borrower, as landlord, and Tenant, as tenant. Lender acknowledges that Tenant's interests under the Lease are encumbered by a certain Leasehold Deed of Trust for the benefit of a lender to Tenant, or a guarantor of a lender to Tenant, that is a federal, state, or local government entity or a non-governmental entity acting on behalf of such federal, state, or local government entity (a "Governmental Lender"), dated _____, 20__, and recorded as Instrument No. _____ in the Official Records of Multnomah County, Oregon, or will be so encumbered by a Governmental Lender at a future date during the tenancy of Tenant (the "Leasehold Encumbrance"). Lender further acknowledges that there may be more than one Governmental Lender or successive Governmental Lenders. Borrower will assign the Lease (as encumbered by the Leasehold Encumbrance) to Lender pursuant to the Deed of Trust. Borrower, Lender, and Tenant will subordinate the Lease to the Deed of Trust, effective as of the date on which the Deed of Trust is recorded, as provided in this Agreement.

NOW, THEREFORE, Borrower, Lender, and Tenant agree as follows:

1. Subordination. The Lease is hereby made and shall at all times be subject and subordinate in all respects to the Deed of Trust and all indebtedness and obligations now or hereafter secured by the Deed of Trust, including, without limitation, all amendments, modifications, extensions, supplements, substitutions, and replacements of the Deed of Trust and all advances made by Lender to Borrower secured by the Deed of Trust.

2. Nondisturbance. If there is a judicial foreclosure sale, a sale pursuant to the power of sale, or an acceptance of a deed in lieu of foreclosure under the Deed of Trust (any such event being a "Foreclosure Sale"), the Lease shall not be terminated (or subject to termination) as a result of the Foreclosure Sale, nor shall Tenant's use, possession, or enjoyment of the portion of the Property demised by the Lease be disturbed, so long as no default exists and no other event has occurred under the Lease that would give the landlord under the Lease the right to terminate the Lease or would cause automatic termination of the Lease. Tenant agrees that the person or entity, which may include Lender, and its successors and assigns, that acquires title to the Property by reason of a Foreclosure Sale and succeeds to the interest of Borrower as landlord under the Lease (such person or entity being the "Foreclosure Purchaser") shall not be (a) liable for any act or omission of Borrower or any other prior landlord under the Lease; (b) subject to any claim, charge, offset, or defense under the Lease that Tenant might have against Borrower or any such prior landlord based on any act, omission, event, or occurrence before the Foreclosure Sale, except for any offset or abatement rights expressly permitted under the Lease (such as any periods of free rent or any rights to abate rent during any interference with Tenant's use and enjoyment of the Property); (c) bound by any rent, additional rent, or deposit that Tenant might have paid in advance to Borrower or any such prior landlord for more than the current month (or other period for which rent or additional rent is to be paid in advance in accordance with the Lease) in which the Foreclosure Sale occurs, unless such rent, additional rent, or deposit is actually received by the Foreclosure Purchaser; (d) responsible for repairing or restoring the Property in the case of damage by fire or other casualty or taking by condemnation, but Lender shall make insurance proceeds available so that the Tenant may restore the Property or cause it to be restored; (e) obligated to perform any construction work required to be done by Borrower or any such prior landlord or to reimburse Tenant for any construction work performed by Tenant; or (f) bound by any agreement not expressly set forth in the Lease.

3. Attornment. If the interest of the landlord under the Lease is transferred by reason of a Foreclosure Sale, Tenant shall be bound to the Foreclosure Purchaser and the Foreclosure Purchaser shall be bound to Tenant under the Lease for the balance of the term of the Lease, and any extension thereof which may be effected in accordance with the Lease, with the same force and effect as if the Foreclosure Purchaser were the original landlord under the Lease, except as otherwise provided in paragraph 2 hereof. Tenant hereby attorns to the Foreclosure Purchaser as the landlord under the Lease, such attornment to be effective and self-operative upon the Foreclosure Sale without the execution of any further agreement. The respective rights and obligations of the Foreclosure Purchaser and Tenant upon such attornment, to the extent of such balance of the term of the Lease and any such extension, shall be the same as now set forth in the Lease, except as otherwise provided in paragraph 2 hereof.

4. Covenants. With respect to the assignment of the Lease by Borrower to Lender pursuant to the Deed of Trust, Tenant shall pay all rent and perform all obligations under the Lease to Borrower until Tenant receives written notice from Lender, in which event Tenant agrees to pay all rent and to perform all obligations under the Lease directly to and for the benefit of Lender or such other party as Lender directs in such notice, and Borrower authorizes Tenant to do so in accordance with the instructions of Lender. Borrower agrees that such payment and performance to and for the benefit of Lender shall satisfy Tenant's obligations under the Lease. Tenant agrees that Lender assumes no obligations under the Lease by virtue of the assignment of the Lease by Borrower to Lender pursuant to the Deed of Trust and that Lender shall not become liable for any obligations under the Lease until Lender acquires title to the Property as a Foreclosure Purchaser at a Foreclosure Sale. As long as the Deed of Trust is a lien against the Property:

- (a) Tenant shall not pay any rent under the Lease more than one (1) month in advance.
- (b) Lender shall not be bound by any amendment made without the prior written consent of Lender, except for any amendment to memorialize the exercise of any express right or option of Tenant under the Lease, such as a renewal option.
- (c) Tenant shall not terminate the Lease, except upon default or breach by Borrower, after giving Lender written notice and opportunity to cure pursuant to this Agreement, or except pursuant to any express early termination right in favor of Tenant under the Lease.
- (d) If Borrower defaults under or breaches the Lease, Tenant shall promptly send written notice to Lender describing each such default or breach and give Lender the following opportunity to cure such default or breach:
 - (i) in the case of a default or breach that is capable of being cured without possession of the Property, Lender shall have the cure period available to Borrower under the Lease plus sixty (60) days to cure such default or breach; and
 - (ii) if curing such default or breach requires possession of the Property, Lender shall have sixty (60) days after the date on which Lender obtains possession of the Property to cure such default or breach.

Tenant shall not terminate the Lease because of any such default or breach by Borrower unless Borrower has given such written notice to Lender and Lender has failed to cure such default or breach within the applicable period of time.

5. Leasehold Encumbrance. Lender acknowledges and agrees that the beneficiary under the Leasehold Encumbrance has or will acquire the right to succeed to Tenant's interests under the Lease pursuant to the terms of the Leasehold Encumbrance. After notice, Lender agrees that its consent shall not be required for any such succession, whether by the original beneficiary or any successors or assigns, and that, if such succession occurs, Lender will recognize the successor (and any successors or assigns) and will not disturb such successor's (or any successors' or assigns') tenancy under the Lease, subject to the terms of this Agreement. Lender also acknowledges that, in lieu of foreclosing under the Leasehold Encumbrance, the

beneficiary and Tenant may elect to cause Tenant to assign its interests under the Lease to a new party, which would then become the tenant under the Lease. Lender agrees that (i) Lender's consent shall not be required for any such assignment and (ii) Lender will recognize the assignee and will not disturb the assignee's tenancy under the Lease, subject to the terms of this Agreement; provided that such assignee shall assume all of the obligations of the tenant under the Lease accruing from and after the effective date of such assignment.

6. Notices. All notices under this Agreement shall be properly given only if made in writing and either mailed by certified mail, return receipt requested, postage prepaid, or delivered by hand (including messenger or recognized delivery, courier, or air express service) to the party at the address set forth in this paragraph or such other address as such party may designate by notice to the other parties. Such notices shall be effective on the date of receipt (evidenced by the certified mail receipt) if mailed or on the date of delivery if hand delivered. If any such notice is not received or cannot be delivered because the receiving party changed its address and did not give notice of such change to the sending party or due to a refusal to accept such notice by the receiving party, such notice shall be effective on the date delivery is attempted. Any notice under this Agreement may be given on behalf of a party by the attorney for such party.

(a) The address of Borrower is _____
_____, attention: _____.

(b) The address of Lender is _____
_____, attention: _____.

(c) The address of Tenant is _____
_____, attention: _____.

7. Miscellaneous. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. If there is any conflict or inconsistency between this Agreement and the Lease, this Agreement shall control. This Agreement may be executed in counterparts, each of which shall be an original but all of which together shall constitute one agreement. This Agreement shall bind and inure to the benefit of Borrower, Lender, and Tenant and their respective successors and assigns.

IN WITNESS WHEREOF, Borrower, Lender, and Tenant have executed this Agreement as of the date first hereinabove written.

TENANT:

SOLOPOWER, INC.,
a Delaware corporation

By _____

Title _____

LENDER:

_____,
a _____

By _____

Title _____

LANDLORD:

_____,
a _____

By _____

Title _____

BORROWER:

_____,
a _____

By _____

Title _____

EXHIBIT A

Description of the Property

All of the real property in the City of Portland, and County of Multnomah, State of Oregon, described as follows:

BORROWER

STATE OF _____)
County of _____) ss.

On _____, 20____, before me, _____,
a Notary Public in and for the State of _____, personally appeared
_____, personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he or she executed the within instrument in his or her authorized
capacity and that, by his or her signature on the within instrument, the person or entity upon
behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

LENDER

STATE OF _____)

) ss. _____

County of _____)

On _____, 20____, before me, _____,
a Notary Public in and for the State of _____, personally appeared
_____, personally known to me (or proved to me on the basis of
satisfactory evidence) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he or she executed the within instrument in his or her authorized
capacity and that, by his or her signature on the within instrument, the person or entity upon
behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

TENANT

STATE OF _____,)

) ss. _____

County of _____,)

On _____, 20__, before me, _____, a
Notary Public in and for the State of _____, personally appeared
_____, personally known to me (or proved to me on the basis
of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he or she executed the within instrument in his or her authorized
capacity and that, by his or her signature on the within instrument, the person or entity upon
behalf of which he or she acted executed the within instrument.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT D

INTENTIONALLY OMITTED

EXHIBIT E

ENVIRONMENTAL QUESTIONNAIRE

FOR OFFICE USE ONLY:

Proposed Lease Commencement Date: _____ Marketing Director: _____

Original

Renewal

Expansion

PRE-LEASING ENVIRONMENTAL EXPOSURE QUESTIONNAIRE
(To be completed prior to Lease Approval)

Property Address: _____

Proposed Tenant: _____
(Include full legal name of proposed tenant and any d/b/a)

Current Address: _____

Description of Proposed Use of Property: _____

PLEASE ANSWER THE FOLLOWING QUESTIONS ACCURATELY AND FULLY, ATTACHING ADDITIONAL PAGES IF NECESSARY. YOUR RESPONSES TO THIS QUESTIONNAIRE, INCLUDING ANY AND ALL ATTACHMENTS, SHALL BE INCORPORATED AS REPRESENTATIONS AND WARRANTIES IN THE LEASE WHEN EXECUTED, AND INCORRECT, MISLEADING OR MATERIALLY INCOMPLETE RESPONSES SHALL BE DEEMED A BREACH OF SAID LEASE.

- I. Will any of the following chemicals, petroleum products or hazardous materials be made, used, placed, or stored on the property in quantities greater than the minimum quantity listed in column (1) below? If yes, please mark column(s) (2), (3), and/or (4) as applicable.

	(1)	(2)	(3)	(4)	(5)
<u>Categories of Chemicals</u>	<u>Minimum Quantity</u>	<u>Made</u>	<u>Used</u>	<u>Placed</u>	<u>Stored</u>
Solvents, Degreasers	1 Gallon	_____	_____	_____	_____
Paint Thinners/Remover	1 Gallon	_____	_____	_____	_____
Paint	5 Gallons	_____	_____	_____	_____
Oil (New)	5 Gallons	_____	_____	_____	_____

Gasoline	1 Gallon				
Antifreeze	5 Gallons				
Other Automotive Fluids	1 Gallon				
Diesel Fuel	5 Gallons				
Heavy (Toxic) Metal Containing Compounds	1 Pound				
Liquid Plastics/Activators	1 Gallon				
Flammable Gases	20 Cu Ft				
Toxic Gases	20 Cu Ft				
Acids	1 GI/5 Lb				
Bases (soda, ash, lye, etc.)	1 GI/5 Lb				
Other Flammable Materials	1 GI/5 Lb				
Other Corrosive Materials	1 GI/5 Lb				
Other Toxic Materials	1 GI/5 Lb				
Other Reactive Materials	1 GI/5 Lb				
Liquid Hazardous Waste	1 Gallon				
Solid Hazardous Waste	1 Pound				

1.1 Do your operations require H-occupancy storage or other special constructions? Yes ☐ No ☐

If yes, please explain: _____

2. Will any of the following structures be used on the property? If yes, describe the contents of each.

<u>Feature</u>	<u>Contents</u>		
Underground Tank	_____	_____	_____
Above-ground Tank	_____	_____	_____
Clarifier	_____	_____	_____
Sump	_____	_____	_____
Trench	_____	_____	_____
Waste Pile	_____	_____	_____
Chemical Piping	_____	_____	_____
Floor Drain	_____	_____	_____
Other	_____	_____	_____

2.1 Please describe plans for secondary containment and leak monitoring. _____

3. Will any hazardous wastes or liquid wastes be generated by on site operations or _____

Yes No

brought on to the property?

If yes, complete the following:

3.1 Identify each such hazardous waste or liquid waste.

3.2 Describe onsite storage, including secondary containment, and/or treatment.

3.3 Describe your plans for disposal of hazardous wastes or liquid waste including off-site disposal.

4. Will operations result in any wastewater discharges to the sewer?

Will operations result in any wastewater discharges to locations other than the sewer (including storm drain)?

If yes, describe each wastewater stream and plans for handling wastewater discharges:

4.1 Have you performed any testing or analysis of wastewater discharges or other wastewater effluent from your current facility?

If yes, attach the results of any such testing or analysis.

4.2 Will your operations require any stormwater discharge permits?

If yes, describe:

5. Will activities on the property require warnings to be given to workers or visitors on the Leased Premises or the surrounding community?

If yes, please describe how you will provide such communications or warnings.

6. Will operations result in any air emissions (including dust)?

If yes, describe:

		Yes	No
6.1	Will permits from the Southern Coast Air Quality Management District be required?	_____	_____
7.	Will operations result in air emissions which include hazardous or toxic air pollutants?	_____	_____
7.1	If yes, will any public notice or disclosure be required?	_____	_____
8.	Will operations be subject to Risk Management & Preview Planning requirements or other risk reduction requirements?	_____	_____
9.	Will your operations involve any on-site vehicle or equipment maintenance, repair or cleaning, including but not limited to oil changes, oil filter changes, brake pad replacement, battery changes, radiator flushing, radiator fluid replacement, and equipment, and equipment wash down and cleaning?	_____	_____
	If yes, describe all such maintenance: _____		
9.1	Will these on-site vehicles or equipment use batteries?	_____	_____
	If yes, describe battery storage method: _____		
10.	Will your operations include a machine shop?	_____	_____
	If yes, describe all operation: _____		
11.	Will your operations include any metal plating or metal fabrication?	_____	_____
	If yes, describe: _____		
12.	Will your operations include the use of solvents?	_____	_____
	If yes, describe: _____		
13.	Has your present facility or operation ever been the subject of an environmental investigation, an environmental enforcement action, or permit revocation proceeding?	_____	_____
	If yes, describe: _____		

		Yes	No
14.	Have you ever been identified as a potentially responsible party for any environmental cleanup, compliance or abatement proceedings?	_____	_____
	If yes, describe: _____		
15.	Have you ever received a notice of violation or notice to comply from any environmental regulatory agency within the past five years?	_____	_____
	If yes, describe: _____		
16.	Have you had any complaints from neighbors relating to noise, odor, air emissions, or dust at your present facility?	_____	_____
	If yes, describe: _____		
16.1	Have you had any complaints relating to hazardous materials handling, storage, treatment or disposal from neighbors at your present facility?	_____	_____
	If yes, describe: _____		
17.	Will the proposed use of the property require the filing of any environmental reports or other documents to any agencies?	_____	_____
18.	Attach copies of all Material Safety Data Sheets ("MSDS") for all chemicals you intend to use, store, or handle on the property.		
19.	Has an Environmental Audit been conducted at your present facility? (If yes, attach a copy of any report prepared in connection with any such audit.)	_____	_____
20.	Please provide the Landlord your Emergency Response Plan and any contingency or emergency plans for the property in case of an accidental release of hazardous materials.		
21.	Identify the name, title and qualifications/experience of person responsible for your environmental, health and safety program:		
	Name: _____		
	Title: _____		
	Qualifications/experience: _____		

22. Name and telephone number of person to contact for additional information:

Name: _____

Title: _____

Qualifications/experience: _____

23. Please provide any additional information/comments concerning your environmental compliance program and environmental compliance history: _____

The undersigned hereby certifies that the information above is correct and complete.

Name of Proposed Tenant

Name: _____

Title: _____

Date: _____

EXHIBIT F
FORM OF LEASEHOLD DEED OF TRUST

[See Attached]

This instrument is prepared by,
recording requested by,
and when recorded return document to:

Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022-6069
Attn: Ex. 6 PP / Ex. 7(C)
File #37077-3

**TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF RENTS
AND LEASES AND FIXTURE FILING (LEASEHOLD ESTATE) (OREGON)**

by and from

SOLOPOWER, INC., "Grantor"

to

[____], "Trustee"

for the benefit of

**PNC BANK, NATIONAL ASSOCIATION, d/b/a Midland Loan Services,
a division of PNC Bank, National Association,
in its capacity as Collateral Agent for the Secured Parties, "Beneficiary"**

Dated as of [_____]

Location:
Municipality:
County:
State: Oregon

ATTENTION: COUNTY RECORDER — This instrument covers goods that are or are to become fixtures on the real property described herein and is to be filed for record in the records where deeds of trust on real estate are recorded. Additionally, per ORS 79.159 this instrument should be appropriately indexed, not only as a Trust Deed, but also as a financing statement covering goods that are or are to become fixtures on the real property described herein in attached Exhibit A. The Debtor, SoloPower, Inc., is a Delaware corporation whose address is [to be inserted] and the Secured Party, PNC BANK, NATIONAL ASSOCIATION, dba Midland Loan Services, a division of PNC Bank, National Association, is a national banking association, whose address is 10851 Mastin, Suite 700, Overland Park, KS 66210.

**TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF RENTS
AND LEASES AND FIXTURE FILING (LEASEHOLD ESTATE) (OREGON)**

THIS TRUST DEED, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (LEASEHOLD ESTATE) (OREGON) (this "*Trust Deed*") is dated as of [] by and from Solopower, Inc., a Delaware corporation ("*Grantor*"), whose address is [], to [] a [] ("*Trustee*"), PNC BANK, NATIONAL ASSOCIATION, d/b/a Midland Loan Services, a division of PNC Bank, National Association, as collateral agent (in such capacity, together with any successors and/or assigns, "*Collateral Agent*") for the Secured Parties, whose address is 10851 Mastin, Suite 700, Overland Park, Kansas 66210 ("*Beneficiary*").

**ARTICLE 1
DEFINITIONS**

Section 1.1 Definitions. All capitalized terms used herein without definition shall have the respective meanings ascribed to them in that certain Loan Guarantee Agreement dated as of [], as the same may be amended, amended and restated, supplemented or otherwise modified from time to time (the "*Guarantee Agreement*"), by and among Grantor, the U.S. Department of Energy, as guarantor and loan servicer, and Beneficiary, as collateral agent. As used herein, the following terms shall have the following meanings:

(a) "*Event of Default*": An Event of Default under and as defined in the Guarantee Agreement, or the default by Grantor in the observance or performance of any covenant, condition or agreement expressly set forth in this Trust Deed beyond the applicable notice and cure period set forth in the Guarantee Agreement.

(b) "*Guaranteed Loan*" shall have the meaning set forth in the Guarantee Agreement.

(c) "*Mortgaged Property*": The leasehold interest in the real property described in Exhibit A created by the Subject Lease (defined below), together with all rights and interests of Grantor in and to the Subject Lease and any greater estate in such real property as hereafter may be acquired by Grantor (the "*Land*"), and all of Grantor's right, title and interest now or hereafter acquired in and to (1) all improvements now owned or hereafter acquired by Grantor, now or at any time situated, placed or constructed upon the Land (the "*Improvements*"); the Land and Improvements are collectively referred to as the "*Premises*"), (2) all materials, supplies, equipment, apparatus and other items of personal property now owned or hereafter acquired by Grantor and now or hereafter attached to, installed in or used in connection with any of the Improvements or the Land, and water, gas, electrical, telephone, storm and sanitary sewer facilities and all other utilities whether or not situated in easements, and all equipment, inventory and other goods in which Mortgagor now has or hereafter acquires any rights or any power to transfer rights and that, in each case, are or are to become fixtures (as defined in the UCC, defined below) related to the Land (the "*Fixtures*"), (3) all goods, accounts, inventory, general intangibles, instruments, documents, contract rights and chattel paper, including all such items as defined in the UCC, now owned or hereafter acquired by Grantor and now or hereafter affixed to, placed upon, used in connection with, arising from or otherwise related to the Premises (the "*Personalty*"), (4) all reserves, escrows or impounds required under the Guarantee Agreement or any of the other Financing Documents and all deposit accounts maintained by Grantor with respect to the Mortgaged Property (the "*Deposit Accounts*"), (5) all leases, licenses, concessions, occupancy agreements or other agreements (written or oral, now or at any time in effect) which grant to any Person, other than Grantor, a possessory interest in, or the right to use, all or any part of the Mortgaged Property, together with all related security and other deposits (the "*Leases*"), (6) all of the rents, revenues, royalties, income, proceeds, profits, accounts

receivable, security and other types of deposits, and other benefits paid or payable by parties to the Leases for using, leasing, licensing possessing, operating from, residing in, selling or otherwise enjoying the Mortgaged Property (the "~~Rents~~"); (7) all other agreements, such as construction contracts, architects' agreements, engineers' contracts, utility contracts, maintenance agreements, management agreements, service contracts, listing agreements, guaranties, warranties, permits, licenses, certificates and entitlements in any way relating to the construction, use, occupancy, operation, maintenance, enjoyment or ownership of the Mortgaged Property (the "*Property Agreements*"); (8) all rights, privileges, tenements, hereditaments, rights-of-way, easements, appendages and appurtenances appertaining to the foregoing, (9) all property tax refunds payable with respect to the Mortgaged Property (the "*Tax Refunds*"); (10) all accessions, replacements and substitutions for any of the foregoing and all proceeds thereof (the "*Proceeds*"); (11) all insurance policies, unearned premiums therefor and proceeds from such policies covering any of the above property now or hereafter acquired by Grantor (the "*Insurance*"); and (12) all awards, damages, remunerations, reimbursements, settlements or compensation heretofore made or hereafter to be made by any governmental authority pertaining to any condemnation or other taking (or any purchase in lieu thereof) of all or any portion of the Land, Improvements, Fixtures or Personalty (the "*Condemnation Awards*"). As used in this Trust Deed, the term "Mortgaged Property" shall mean all or, where the context permits or requires, any portion of the above or any interest therein. Notwithstanding anything to the contrary contained herein, (i) "Mortgaged Property" (and any other defined term constituting part thereof) shall not include any Excluded Asset (as such term is defined in the Security Agreement) *provided*, that, if and when any of the foregoing or any other Property shall cease to be an Excluded Asset, such Property shall be deemed at all times from and after the date thereof to constitute Mortgaged Property to the extent otherwise described in the definition thereof; and (ii) this Trust Deed shall not, at any time constitute a grant of a Lien on any Property of the Grantor that is, at such time, an Excluded Asset.

(d) "*Obligations*": All of the agreements, covenants, conditions, warranties, representations and other obligations of Grantor (including, without limitation, the obligation to repay the Guaranteed Loan) under the Guarantee Agreement and the other Financing Documents to which it is a party.

(e) "*Security Agreement*": That certain Security Agreement by and from Grantor and the other grantors referred to therein to Collateral Agent and the other Secured Parties dated as of even date herewith, as the same may hereafter be amended, amended and restated, supplemented or otherwise modified from time to time.

(f) "*Subject Lease*": Shall have the meaning set forth in Exhibit B attached hereto.

(g) "*UCC*": The Uniform Commercial Code of Oregon or, if the creation, perfection and enforcement of any security interest herein granted is governed by the laws of a state other than Oregon, then, as to the matter in question, the Uniform Commercial Code in effect in that state.

ARTICLE 2 GRANT

Section 2.1 Grant. To secure the full and timely payment of the Guaranteed Loan and the full and timely performance of the Obligations, Grantor GRANTS, BARGAINS, ASSIGNS, SELLS, CONVEYS and CONFIRMS, to Trustee the Mortgaged Property, subject, however, only to the matters that are set forth on Exhibit C attached hereto (the "*Permitted Encumbrances*") and to Permitted Liens, TO HAVE AND TO HOLD the Mortgaged Property, IN TRUST, WITH POWER OF SALE, and Grantor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Trustee.

ARTICLE 3
WARRANTIES, REPRESENTATIONS AND COVENANTS

Grantor warrants, represents and covenants to Beneficiary as follows:

Section 3.1 Title to Mortgaged Property and Lien of this Instrument. Grantor owns the Mortgaged Property free and clear of any liens, claims or interests, except the Permitted Encumbrances and the Permitted Liens. This Trust Deed creates valid, enforceable first priority liens and security interests against the Mortgaged Property.

Section 3.2 First Lien Status. Grantor shall preserve and protect the first lien and security interest status of this Trust Deed and the other Financing Documents. If any lien or security interest other than a Permitted Encumbrance or a Permitted Lien is asserted against the Mortgaged Property, Grantor shall promptly, and at its expense, (a) give Beneficiary a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Guarantee Agreement (including the requirement of providing a bond or other security satisfactory to Beneficiary).

Section 3.3 Payment and Performance. Grantor shall pay the Guaranteed Loan when due under the Guarantee Agreement and the other Financing Documents and shall perform the Obligations in full when they are required to be performed.

Section 3.4 Replacement of Fixtures and Personalty. Unless otherwise permitted by the Guarantee Agreement, Grantor shall not, without the prior written consent of Beneficiary, permit any of the Fixtures or Personalty owned or leased by Grantor to be removed at any time from the Land or Improvements, unless the removed item is removed temporarily for maintenance and repair or is permitted to be removed by the Guarantee Agreement.

Section 3.5 Inspection. Grantor shall permit Beneficiary and the other Secured Parties and their respective agents, representatives and employees, upon reasonable prior notice to Grantor, and in compliance with the Subject Lease, to (i) inspect the Mortgaged Property and all books, records and accounts of Grantor relating thereto and located thereon, and (ii) conduct such environmental and engineering studies as Beneficiary or the other Secured Parties may require, provided that such inspections and studies shall not materially interfere with the use and operation of the Mortgaged Property.

Section 3.6 Other Covenants. All of the covenants in the Guarantee Agreement are incorporated herein by reference and, together with covenants in this Article 3, shall be covenants running with the Land.

Section 3.7 Insurance; Condemnation Awards and Insurance Proceeds.

(a) **Insurance.** Grantor shall maintain or cause to be maintained all Required Insurance in accordance with the terms of the Guarantee Agreement.

(b) **Condemnation Awards.** Subject to the terms of the Subject Lease, all Condemnation Awards and Eminent Domain Proceeds shall be disbursed in accordance with the terms of the Guarantee Agreement.

(c) Insurance Proceeds. Subject to the terms of the Subject Lease, all Insurance Proceeds shall be disbursed in accordance with the terms of the Guarantee Agreement.

ARTICLE 4
LEASEHOLD TRUST DEED PROVISIONS

Section 4.1 Representations; Warranties; Covenants. Grantor hereby represents, warrants and covenants that:

(a) (1) Except as set forth in Exhibit B hereof or as permitted under the Guarantee Agreement, the Subject Lease is unmodified and in full force and effect, (2) all rent and other charges therein have been paid to the extent they are payable to the date hereof, (3) Grantor enjoys the quiet and peaceful possession of the Premises, (4) to the best of its knowledge, Grantor is not in default under any of the material terms thereof and there are no circumstances which, with the passage of time or the giving of notice or both, would constitute an event of default thereunder, (5) to the best of Grantor's knowledge, the lessor thereunder is not in default under any of the material terms or provisions thereof on the part of the lessor to be observed or performed, and (6) except as provided or required under the Subject Lease, Grantor has not previously subordinated its interest in the Mortgaged Property to the Lien or interests of any mortgagee of the lessor's fee interest in the Premises;

(b) Grantor shall promptly pay, when due and payable, the rent and other charges payable pursuant to the Subject Lease, taking into account any applicable grace or cure periods, and will timely perform and observe all of the other material terms, covenants and conditions required to be performed and observed by Grantor as lessee under the Subject Lease;

(c) Grantor shall notify Beneficiary in writing of any default by Grantor in the performance or observance of any terms, covenants or conditions on the part of Grantor to be performed or observed under the Subject Lease within five (5) Business Days after an Authorized Officer of Grantor obtains Knowledge of such default;

(d) Grantor shall, promptly upon receipt thereof, and in any event within five (5) Business Days after such receipt, deliver a copy of each material notice given to Grantor by the lessor pursuant to the Subject Lease and promptly, and in any event within five (5) Business Days after an Authorized Officer of Grantor obtains Knowledge thereof, notify Beneficiary in writing of any default by the lessor in the performance or observance of any of the material terms, covenants or conditions on the part of the lessor to be performed or observed thereunder;

(e) Unless required under the terms of the Subject Lease or permitted under the Guarantee Agreement, Grantor shall not terminate, modify or surrender the Subject Lease without the prior written consent of Beneficiary (which, in the case of any proposed termination or surrender, may be granted or withheld in Beneficiary's sole and absolute discretion and, in the case of any other modification, may be granted or withheld in Beneficiary's reasonable discretion), and any such attempted termination, modification or surrender without Beneficiary's written consent shall be void;

(f) If the Subject Lease shall be rejected or disaffirmed by the lessor thereunder (or by any receiver, trustee, custodian or other party who succeeds to the rights of such lessor) pursuant to the Bankruptcy Code or similar or successor law or right, Grantor covenants that it will not elect to treat the Subject Lease as terminated under 11 U.S.C. § 365(h) or any similar or successor law or right. Upon the occurrence and during the continuance of an Event of Default, Beneficiary shall have the sole and exclusive right to make or refrain from making any such election, and Grantor agrees that any such

election, if made by Grantor other than in accordance with this subsection, shall be void and of no force or effect;

(g) Grantor shall, within thirty (30) days after written request from Beneficiary, use commercially reasonable efforts to obtain from the lessor and deliver to Beneficiary a certificate setting forth the name of the tenant under the Subject Lease and stating that the Subject Lease is in full force and effect, is unmodified or, if the Subject Lease has been modified, the date of each modification (together with copies of each such modification), that no notice of termination thereof has been served on Grantor, stating that no default or event which with notice or lapse of time (or both) would become a default is existing under the Subject Lease (or if any such default or event is existing, specifying the nature of such default or event), stating the date to which rent has been paid, and containing such other statements and representations as may be requested by Beneficiary; *provided, however*, that so long as no Event of Default shall have occurred and be continuing, no more than two (2) such certificates shall be requested during any twelve (12) month period; and further provided, however, that Grantor's failure to obtain such certificate shall in no event constitute an Event of Default if the lessor is not required to deliver such certificate under the terms of the Subject Lease; and

(h) Unless required or provided under the Subject Lease, Grantor shall not at any time subordinate its interest in the Mortgaged Property or any portion thereof to the Lien or interests of any mortgagee of the lessor's fee interest in the Premises.

Section 4.2 No Merger. So long as any of the Guaranteed Loan or the Obligations remain unpaid or unperformed, the fee title to and the leasehold estate in the Premises subject to the Subject Lease shall not merge but shall always be kept separate and distinct notwithstanding the union of such estates in the lessor or Grantor, or in a third party, by purchase or otherwise. If Grantor acquires the fee title or any other estate, title or interest in the Premises, or any part thereof, the lien of this Trust Deed shall attach to, cover and be a lien upon such acquired estate, title or interest and the same shall thereupon be and become a part of the Mortgaged Property with the same force and effect as if specifically encumbered herein. Grantor agrees to execute all instruments and documents that Beneficiary or Trustee may reasonably require to ratify, confirm and further evidence the lien of this Trust Deed on the acquired estate, title or interest. Furthermore, Grantor hereby appoints Beneficiary as its true and lawful attorney-in-fact to execute and deliver, following the occurrence and during the continuance of an Event of Default, all such instruments and documents in the name and on behalf of Grantor. This power, being coupled with an interest, shall be irrevocable as long as any portion of the Guaranteed Loan remains unpaid.

Section 4.3 Beneficiary as Lessee. If the Subject Lease shall be terminated prior to the natural expiration of its term due to default by Grantor or any tenant thereunder, and if, pursuant to the provisions of the Subject Lease, Beneficiary or its designee shall acquire from the lessor a new lease of the Premises, Grantor shall have no right, title or interest in or to such new lease or the leasehold estate created thereby, or renewal privileges therein contained.

Section 4.4 No Assignment. Notwithstanding anything to the contrary contained herein, this Trust Deed shall not constitute an assignment of the Subject Lease within the meaning of any provision thereof prohibiting its assignment and Beneficiary shall have no liability or obligation thereunder by reason of its acceptance of this Trust Deed. Beneficiary shall be liable for the obligations of the tenant arising out of the Subject Lease for only that period of time for which Beneficiary is in possession of the Premises or has acquired, by foreclosure or otherwise, and is holding all of Grantor's right, title and interest therein.

ARTICLE 5
DEFAULT AND FORECLOSURE

Section 5.1 Remedies. Upon the occurrence and during the continuance of an Event of Default, Beneficiary may, at Beneficiary's election and by or through Trustee or otherwise, exercise any or all of the following rights, remedies and recourses:

(a) Acceleration. Subject to any provisions of the Financing Documents providing for the automatic acceleration of the Guaranteed Loan upon the occurrence of certain Events of Default, declare the Guaranteed Loan to be immediately due and payable, without further notice, presentment, protest, notice of intent to accelerate, notice of acceleration, demand or action of any nature whatsoever (each of which hereby is expressly waived by Grantor), whereupon the same shall become immediately due and payable.

(b) Entry on Mortgaged Property. Subject to the terms of the Subject Lease and applicable law, enter the Mortgaged Property and take exclusive possession thereof and of all books, records and accounts relating thereto or located thereon. If Grantor remains in possession of the Mortgaged Property following the occurrence and during the continuance of an Event of Default, and without Beneficiary's prior written consent, subject to the terms of the Subject Lease and applicable law, Beneficiary may invoke any legal remedies to dispossess Grantor.

(c) Operation of Mortgaged Property. Hold, lease, develop, manage, operate or otherwise use the Mortgaged Property upon such terms and conditions as Beneficiary may deem reasonable under the circumstances (making such repairs, alterations, additions and improvements and taking other actions, from time to time, as Beneficiary deems necessary or desirable), all in a manner consistent with the terms of the Subject Lease, and apply all Rents and other amounts collected by Trustee or Beneficiary in connection therewith in accordance with the provisions of Section 5.7.

(d) Foreclosure and Sale. In accordance with applicable law, institute proceedings for the complete foreclosure of this Trust Deed by judicial action or by power of sale, in which case the Mortgaged Property may be sold for cash or credit in one or more parcels as Beneficiary may determine, subject to the terms of the Subject Lease and applicable law. With respect to any notices required or permitted under the UCC, Grantor agrees that ten (10) days' prior written notice shall be deemed commercially reasonable. At any such sale by virtue of any judicial proceedings, power of sale, or any other legal right, remedy or recourse, the title to and right of possession of any such property shall pass to the purchaser thereof, and to the fullest extent permitted by law, Grantor shall be completely and irrevocably divested of all of its right, title, interest, claim, equity, equity of redemption, and demand whatsoever, either at law or in equity, in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Grantor, and against all other Persons claiming or to claim the property sold or any part thereof, by, through or under Grantor. Beneficiary or any of the other Secured Parties may be a purchaser at such sale and if Beneficiary or such other Secured Party is the highest bidder, Beneficiary or such other Secured Party may credit the portion of the purchase price that would be distributed to Beneficiary or such other Secured Party against the Guaranteed Loan in lieu of paying cash. In the event this Trust Deed is foreclosed by judicial action, appraisal of the Mortgaged Property is waived.

(e) Postponement of Sale. Trustee may postpone sale of all or any portion of the Mortgaged Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at such subsequently noticed sale, and without further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a

new notice of sale; *provided, however*, that such postponement shall not exceed the time periods set forth in ORS 86.755(2).

(f) Receiver. Make application to a court of competent jurisdiction for, and obtain from such court as a matter of strict right and without notice to Grantor or regard to the adequacy of the Mortgaged Property for the repayment of the Guaranteed Loan, the appointment of a receiver of the Mortgaged Property, and Grantor irrevocably consents to such appointment. Any such receiver shall have all the usual powers and duties of receivers in similar cases, including the full power to rent, maintain and otherwise operate the Mortgaged Property upon such terms as may be approved by the court, and in a manner consistent with the terms of the Subject Lease, and shall apply such Rents in accordance with the provisions of Section 5.7.

(g) Other. Subject to the terms of the Subject Lease, exercise all other rights, remedies and recourses granted under the Financing Documents or otherwise available at law or in equity.

Section 5.2 Separate Sales. To the extent not prohibited under the Subject Lease, the Mortgaged Property may be sold in one or more parcels and in such manner and order as Trustee in its sole discretion may elect. The right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 5.3 Remedies Cumulative, Concurrent and Nonexclusive. Trustee, Beneficiary and the other Secured Parties shall have all rights, remedies and recourses granted in the Financing Documents and available at law or equity (including the UCC), which rights (a) shall be cumulative and concurrent, (b) may be pursued separately, successively or concurrently against Grantor or others obligated under the Financing Documents, or against the Mortgaged Property, or against any one or more of them, at the sole discretion of Trustee, Beneficiary or such other Secured Party, as the case may be, (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by Trustee, Beneficiary or any other Secured Party in the enforcement of any rights, remedies or recourses under the Financing Documents or otherwise at law or equity shall be deemed to cure any Event of Default.

Section 5.4 Release of and Resort to Collateral. Beneficiary may release, regardless of consideration and without the necessity for any notice to or consent by the holder of any subordinate lien on the Mortgaged Property, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the lien or security interest created in or evidenced by the Financing Documents or their status as a first and prior lien and security interest in and to the Mortgaged Property. For payment of the Guaranteed Loan, Beneficiary may resort to any other security in such order and manner as Beneficiary may elect.

Section 5.5 Waiver of Redemption, Notice and Marshalling of Assets. To the fullest extent permitted by law, Grantor hereby irrevocably and unconditionally waives and releases (a) all benefit that might accrue to Grantor by virtue of any present or future statute of limitations or law or judicial decision exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any stay of execution, exemption from civil process, redemption or extension of time for payment, (b) all notices of any Event of Default or of any election by Trustee or Beneficiary to exercise or the actual exercise of any right, remedy or recourse provided for under the Financing Documents, and (c) any right to a marshalling of assets or a sale in inverse order of alienation.

Section 5.6 Discontinuance of Proceedings. If Trustee, Beneficiary or any other Secured Party shall have proceeded to invoke any right, remedy or recourse permitted under the

Financing Documents and shall thereafter elect to discontinue or abandon it for any reason, Trustee, Beneficiary or such other Secured Party, as the case may be, shall have the unqualified right to do so and, in such an event, Grantor, Trustee, Beneficiary and the other Secured Parties shall be restored to their former positions with respect to the Guaranteed Loan, the Obligations, the Financing Documents, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Trustee, Beneficiary and the other Secured Parties shall continue as if the right, remedy or recourse had never been invoked, but no such discontinuance or abandonment shall waive any Event of Default which may then exist or the right of Trustee, Beneficiary or any other Secured Party thereafter to exercise any right, remedy or recourse under the Financing Documents for such Event of Default.

Section 5.7 Application of Proceeds. The proceeds of any sale of, and the Rents and other amounts generated by the holding, leasing, management, operation or other use of the Mortgaged Property, shall be applied by Beneficiary or Trustee (or the receiver, if one is appointed) in the order set forth in the Guarantee Agreement, the Security Documents or any other Financing Document, or, if not provided for therein, in the following order unless otherwise required by applicable law:

(a) to the payment of the costs and expenses of taking possession of the Mortgaged Property and of holding, using, leasing, repairing, improving and selling the same, including, without limitation (1) trustee's and receiver's fees and expenses, including the repayment of the amounts evidenced by any receiver's certificates, (2) court costs, (3) attorneys' and accountants' fees and expenses, (4) costs of advertisement, and (5) the payment of all rent and other charges under the Subject Lease;

(b) to the payment of the Guaranteed Loan and performance of the Obligations in such manner and order of preference as Beneficiary in its sole discretion may determine; and

(c) the balance, if any, to the Persons legally entitled thereto.

Section 5.8 Occupancy After Foreclosure. Any sale of the Mortgaged Property or any part thereof in accordance with Section 5.1(d) will divest all right, title and interest of Grantor in and to the property sold. Subject to applicable law and the Subject Lease, any purchaser at a foreclosure sale will receive immediate possession of the property purchased. If Grantor retains possession of such property or any part thereof subsequent to such sale, Grantor will be considered a tenant at sufferance of the purchaser, and will, if Grantor remains in possession after demand to remove, be subject to eviction and removal, forcible or otherwise, with or without process of law.

Section 5.9 Additional Advances and Disbursements; Costs of Enforcement.

(a) To the extent not prohibited under the terms of the Subject Lease, upon the occurrence and during the continuance of any Event of Default, Beneficiary and each of the other Secured Parties shall have the right, but not the obligation, to cure such Event of Default in the name and on behalf of Grantor. All sums advanced and expenses incurred at any time by Beneficiary or any other Secured Party under this Section 5.9, or otherwise under this Trust Deed or any of the other Financing Documents or applicable law, shall bear interest from the date that such sum is advanced or expense incurred, to and including the date of reimbursement, computed at the highest rate at which interest is then computed on any portion of the Guaranteed Loan, and all such sums, together with interest thereon, shall be secured by this Trust Deed.

(b) Grantor shall pay all expenses (including reasonable attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Trust Deed and the other Financing Documents, or the enforcement, compromise or settlement of the Guaranteed Loan or any claim under this Trust Deed

and the other Financing Documents, and for the curing thereof, or for defending or asserting the rights and claims of Beneficiary in respect thereof, by litigation or otherwise.

Section 5.10 No Mortgagee in Possession. Neither the enforcement of any of the remedies under this Article 5, the assignment of the Rents and Leases under Article 6, the security interests under Article 7, nor any other remedies afforded to Beneficiary under the Financing Documents, at law or in equity shall cause Trustee, Beneficiary or any other Secured Party to be deemed or construed to be a mortgagee in possession of the Mortgaged Property, to obligate Trustee, Beneficiary or any other Secured Party to lease the Mortgaged Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

ARTICLE 6

ASSIGNMENT OF RENTS AND LEASES

Section 6.1 Assignment. In furtherance of and in addition to the assignment made by Grantor in Section 2.1 of this Trust Deed, Grantor hereby absolutely and unconditionally assigns, sells, transfers and conveys to Trustee (for the benefit of Beneficiary) and to Beneficiary all of its right, title and interest in and to all Leases, whether now existing or hereafter entered into, and all of its right, title and interest in and to all Rents. This assignment is an absolute assignment and not an assignment for additional security only. So long as no Event of Default shall have occurred and be continuing, Grantor shall have a revocable license from Trustee and Beneficiary to exercise all rights extended to the landlord under the Leases, including the right to receive and collect all Rents and to hold the Rents in trust for use in the payment and performance of the Obligations and to otherwise use the same. The foregoing license is granted subject to the conditional limitation that no Event of Default shall have occurred and be continuing. Upon the occurrence and during the continuance of an Event of Default, whether or not legal proceedings have commenced, and without regard to waste, adequacy of security for the Obligations or solvency of Grantor, the license herein granted shall automatically expire and terminate, without notice to Grantor by Trustee or Beneficiary (any such notice being hereby expressly waived by Grantor to the extent permitted by applicable law).

Section 6.2 Perfection Upon Recordation. Grantor acknowledges that Beneficiary and Trustee have taken all actions necessary to obtain, and that upon recordation of this Trust Deed Beneficiary and Trustee shall have, to the extent permitted under applicable law, a valid and fully perfected, first priority, present assignment of the Rents arising out of the Leases and all security for such Leases. Grantor acknowledges and agrees that upon recordation of this Trust Deed Trustee's and Beneficiary's interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Grantor and to the extent permitted under applicable law, all third parties, including, without limitation, any subsequently appointed trustee in any case under Title 11 of the United States Code (the "*Bankruptcy Code*"), without the necessity of commencing a foreclosure action with respect to this Trust Deed, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action.

Section 6.3 Bankruptcy Provisions. Without limitation of the absolute nature of the assignment of the Rents hereunder, Grantor, Trustee and Beneficiary agree that (a) this Trust Deed shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Trust Deed extends to property of Grantor acquired before the commencement of a case in bankruptcy and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any case in bankruptcy.

ARTICLE 7
SECURITY AGREEMENT

Section 7.1 Security Interest. This Trust Deed constitutes a "security agreement" on personal property within the meaning of the UCC and other applicable law and with respect to the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards. To this end, Grantor grants to Beneficiary a first and prior security interest in the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance, Condemnation Awards and all other Mortgaged Property which is personal property to secure the payment of the Guaranteed Loan and performance of the Obligations, and agrees that Beneficiary shall have all the rights and remedies of a secured party under the UCC with respect to such property. Any notice of sale, disposition or other intended action by Beneficiary with respect to the Personalty, Fixtures, Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards sent to Grantor at least ten (10) days prior to any action under the UCC shall constitute reasonable notice to Grantor. In the event of any conflict or inconsistency between the terms of this Trust Deed and the terms of the Security Agreement with respect to the collateral covered both therein and herein, the Security Agreement shall control and govern to the extent of any such conflict or inconsistency.

Section 7.2 Financing Statements. Grantor shall prepare and deliver to Beneficiary such financing statements, and shall execute and deliver to Beneficiary such other documents, instruments and further assurances, in each case in form and substance satisfactory to Beneficiary, as Beneficiary may, from time to time, reasonably consider necessary to create, perfect and preserve Beneficiary's security interest hereunder. Grantor hereby irrevocably authorizes Beneficiary to cause financing statements (and amendments thereto and continuations thereof) and any such documents, instruments and assurances to be recorded and filed, at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest. Grantor represents and warrants to Beneficiary that Grantor's jurisdiction of organization is the State of Delaware. After the date of this Trust Deed, Grantor shall not change its name, type of organization, organizational identification number (if any), jurisdiction of organization or location (within the meaning of the UCC) without giving at least thirty (30) days' prior written notice to Beneficiary.

Section 7.3 Fixture Filing. This Trust Deed shall also constitute a "fixture filing" for the purposes of the UCC against all of the Mortgaged Property which is or is to become fixtures. The information provided in this Section 7.3 is provided so that this Trust Deed shall comply with the requirements of the UCC for a mortgage instrument to be filed as a financing statement. Grantor is the "Debtor" and its name and mailing address are set forth in the preamble of this Trust Deed immediately preceding Article 1. Beneficiary is the "Secured Party" and its name and mailing address from which information concerning the security interest granted herein may be obtained are also set forth in the preamble of this Trust Deed immediately preceding Article 1. A statement describing the portion of the Mortgaged Property comprising the fixtures hereby secured is set forth in Section 1.1(c) of this Trust Deed. Grantor represents and warrants to Beneficiary that Grantor is the record owner of the Mortgaged Property, the employer identification number of Grantor is [] and the organizational identification number of Grantor is [].

ARTICLE 8
CONCERNING THE TRUSTEE

Section 8.1 Certain Rights. With the approval of Beneficiary, Trustee shall have the right to select, employ and consult with counsel. Trustee shall have the right to rely on any instrument, document or signature authorizing or supporting any action taken or proposed to be taken by it hereunder,

believed by it in good faith to be genuine. Trustee shall be entitled to reimbursement for actual, reasonable expenses incurred by it in the performance of its duties and to reasonable compensation for Trustee's services hereunder as shall be rendered. Grantor shall, from time to time, pay the compensation due to Trustee hereunder and reimburse Trustee for, and indemnify, defend and save Trustee harmless against, all liability and reasonable expenses which may be incurred by it in the performance of its duties, including those arising from joint, concurrent, or comparative negligence of Trustee; *provided, however*, that Grantor shall not be liable under such indemnification to the extent such liability or expenses result solely from Trustee's gross negligence or willful misconduct. Grantor's obligations under this Section 8.1 shall not be reduced or impaired by principles of comparative or contributory negligence.

Section 8.2 Retention of Money. All moneys received by Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received, but need not be segregated in any manner from any other moneys (except to the extent required by law), and Trustee shall be under no liability for interest on any moneys received by Trustee hereunder.

Section 8.3 Successor Trustees. If Trustee or any successor Trustee shall die, resign or become disqualified from acting in the execution of this trust, or Beneficiary shall desire to appoint a substitute Trustee, Beneficiary shall have full power to appoint one or more substitute Trustees and, if preferred, several substitute Trustees in succession who shall succeed to all the estates, rights, powers and duties of Trustee. Such appointment may be executed by any authorized agent of Beneficiary and as so executed, such appointment shall be conclusively presumed to be executed with authority, valid and sufficient, without further proof of any action, upon the recordation of the appointment of successor trustee in the mortgage records of the county in which this Trust Deed is recorded.

Section 8.4 Perfection of Appointment. Should any deed, conveyance or instrument of any nature be required from Grantor by any successor Trustee to more fully and certainly vest in and confirm to such successor Trustee such estates, rights, powers and duties, then, upon request by such Trustee, all such deeds, conveyances and instruments shall be made, executed, acknowledged and delivered and shall be caused to be recorded and/or filed by Grantor.

Section 8.5 Trustee Liability. In no event or circumstance shall Trustee or any substitute Trustee hereunder be personally liable under or as a result of this Trust Deed, either as a result of any action by Trustee (or any substitute Trustee) in the exercise of the powers hereby granted or otherwise.

ARTICLE 9

MISCELLANEOUS

Section 9.1 Notices. Any notice required or permitted to be given under this Trust Deed shall be given in accordance with Section 11.1 of the Guarantee Agreement.

Section 9.2 Covenants Running with the Land. All Obligations contained in this Trust Deed are intended by Grantor, Beneficiary and Trustee to be, and shall be construed as, covenants running with the Land. As used herein, "Grantor" shall refer to the party named in the first paragraph of this Trust Deed and to any subsequent owner of all or any portion of the Mortgaged Property. All Persons who may have or acquire an interest in the Mortgaged Property shall be deemed to have notice of, and be bound by, the terms of the Guarantee Agreement and the other Financing Documents; *provided, however*, that no such party shall be entitled to any rights thereunder without the prior written consent of Beneficiary.

Section 9.3 Attorney-in-Fact. Grantor hereby irrevocably appoints Beneficiary as its attorney-in-fact, which agency is coupled with an interest and with full power of substitution with full authority in the place and stead of Grantor and in the name of Grantor or otherwise, (a) to execute and/or record any notices of completion, cessation of labor or any other notices that Beneficiary deems appropriate to protect Beneficiary's interest, if Grantor shall fail to do so within ten (10) days after written request by Beneficiary, (b) upon the issuance of a deed pursuant to the foreclosure of this Trust Deed or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Deposit Accounts, Property Agreements, Tax Refunds, Proceeds, Insurance and Condemnation Awards in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare and file or record financing statements and continuation statements, and to prepare, execute and file or record applications for registration and like papers necessary to create, perfect or preserve Beneficiary's security interests and rights in or to any of the Mortgaged Property, and (d) after the occurrence and during the continuance of any Event of Default, to perform any obligation of Grantor hereunder; *provided, however*, (1) Beneficiary shall not under any circumstances be obligated to perform any obligation of Grantor; (2) any sums advanced by Beneficiary in such performance shall be added to and included in the Guaranteed Loan and shall bear interest at the highest rate at which interest is then computed on any portion of the Guaranteed Loan; (3) Beneficiary as such attorney-in-fact shall only be accountable for such funds as are actually received by Beneficiary; and (4) Beneficiary shall not be liable to Grantor or any other person or entity for any failure to take any action which it is empowered to take under this Section 9.3.

Section 9.4 Successors and Assigns. This Trust Deed shall be binding upon and inure to the benefit of Beneficiary, the other Secured Parties, Trustee and Grantor and their respective successors and assigns. Grantor shall not, without the prior written consent of Beneficiary, assign any rights, duties or obligations hereunder.

Section 9.5 No Waiver. Any failure by Beneficiary, the other Secured Parties or Trustee to insist upon strict performance of any of the terms, provisions or conditions of the Financing Documents shall not be deemed to be a waiver of same, and Beneficiary, the other Secured Parties or Trustee shall have the right at any time to insist upon strict performance of all of such terms, provisions and conditions.

Section 9.6 Guarantee Agreement. If any conflict or inconsistency exists between this Trust Deed and the Guarantee Agreement, the Guarantee Agreement shall control and govern to the extent of any such conflict or inconsistency.

Section 9.7 Release or Reconveyance. Upon payment in full of the Guaranteed Loan and performance in full of the Obligations or upon a sale or other disposition of the Mortgaged Property permitted by the Guarantee Agreement, Beneficiary, at Grantor's request and expense, shall release the liens and security interests created by this Trust Deed or reconvey the Mortgaged Property to Grantor.

Section 9.8 Waiver of Stay, Moratorium and Similar Rights. Grantor agrees, to the full extent that it may lawfully do so, that it will not at any time insist upon or plead or in any way take advantage of any stay, marshalling of assets, extension, redemption or moratorium law now or hereafter in force and effect so as to prevent or hinder the enforcement of the provisions of this Trust Deed or the Guaranteed Loan or Obligations secured hereby, or any agreement between Grantor and Beneficiary or any rights or remedies of Trustee, Beneficiary or any other Secured Party.

Section 9.9 Applicable Law. The provisions of this Trust Deed regarding the creation, perfection and enforcement of the liens and security interests herein granted shall be governed by and construed under the laws of the state in which the Mortgaged Property is located. All other provisions of

this Trust Deed shall be governed by the laws of the State of New York (including, without limitation, Section 5-1401 of the General Obligations Law of the State of New York).

Section 9.10 Headings. The Article, Section and Subsection titles hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 9.11 Severability. If any provision of this Trust Deed shall be held by any court of competent jurisdiction to be unlawful, void or unenforceable for any reason, such provision shall be deemed severable from and shall in no way affect the enforceability and validity of the remaining provisions of this Trust Deed.

Section 9.12 Entire Agreement. This Trust Deed and the other Financing Documents embody the entire agreement and understanding between Grantor and Beneficiary relating to the subject matter hereof and thereof and supersede all prior agreements and understandings between such parties relating to the subject matter hereof and thereof. Accordingly, the Financing Documents may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

Section 9.13 Beneficiary as Agent; Successor Agents.

(a) Collateral Agent has been appointed to act as Collateral Agent hereunder by the other Secured Parties. Collateral Agent shall have the right hereunder to make demands, to give notices, to exercise or refrain from exercising any rights, and to take or refrain from taking any action (including, without limitation, the release or substitution of the Mortgaged Property) in accordance with the terms of the Guarantee Agreement, any related agency agreement among Collateral Agent and the other Secured Parties (collectively, as amended, amended and restated, supplemented or otherwise modified or replaced from time to time, the "*Agency Documents*") and this Trust Deed. Grantor and all other Persons shall be entitled to rely on releases, waivers, consents, approvals, notifications and other acts of Collateral Agent, without inquiry into the existence of required consents or approvals of the Secured Parties therefor.

(b) Beneficiary shall at all times be the same Person that is Collateral Agent under the Agency Documents. Written notice of resignation by Collateral Agent pursuant to the Agency Documents shall also constitute notice of resignation as Agent under this Trust Deed. Removal of Collateral Agent pursuant to any provision of the Agency Documents shall also constitute removal as Collateral Agent under this Trust Deed. Appointment of a successor Collateral Agent pursuant to the Agency Documents shall also constitute appointment of a successor Collateral Agent under this Trust Deed. Upon the acceptance of any appointment as Collateral Agent by a successor Collateral Agent under the Agency Documents, that successor Collateral Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring or removed Collateral Agent as the Beneficiary under this Trust Deed, and the retiring or removed Collateral Agent shall promptly (i) assign and transfer to such successor Collateral Agent all of its right, title and interest in and to this Trust Deed and the Mortgaged Property, and (ii) execute and deliver to such successor Collateral Agent such assignments and amendments and take such other actions, as may be necessary or appropriate in connection with the assignment to such successor Collateral Agent of the liens and security interests created hereunder, whereupon such retiring or removed Collateral Agent shall be discharged from its duties and obligations under this Trust Deed. After any retiring or removed Collateral Agent's resignation or removal hereunder as Collateral Agent, the provisions of this Trust Deed and the Agency Documents shall inure to its benefit as to any actions taken or omitted to be taken by it under this Trust Deed while it was Collateral Agent hereunder.

Section 9.14 Subrogation. If any or all of the proceeds of the Guaranteed Loan are used to extinguish, extend or renew any indebtedness heretofore existing against the Mortgaged Property, then, to the extent of the funds so used, Beneficiary and the other Secured Parties shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Mortgaged Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Beneficiary and the other Secured Parties and are merged with the lien and security interest created herein as cumulative security for the repayment of the Guaranteed Loan and the performance of the Obligations.

ARTICLE 10 LOCAL LAW PROVISIONS

Section 10.1 Inconsistencies. In the event of any inconsistencies between the terms and conditions of this Article 10 and the other provisions of this Trust Deed, the terms and conditions of this Article 10 shall control and be binding.

Section 10.2 Statutory Warning.

(a) Unless Grantor provides Beneficiary with evidence of insurance coverage as required by this Trust Deed, Beneficiary may purchase insurance at Grantor's expense to protect Beneficiary's interest. This insurance may, but need not, also protect Grantor's interest. If the collateral becomes damaged, the coverage Beneficiary purchases may not pay any claim Grantor makes or any claim made against Grantor. Grantor may later cancel this coverage by providing evidence that Grantor has obtained property coverage elsewhere.

(b) Grantor is responsible for the cost of any insurance purchased by Beneficiary. The cost of this insurance may be added to the Guaranteed Loan. If the cost is added to the Guaranteed Loan, the interest rate on the Guaranteed Loan will apply to this added amount. The effective date of coverage may be the date Grantor's prior coverage lapsed or the date Grantor failed to provide proof of coverage. The coverage Beneficiary purchases may be considerably more expensive than insurance Grantor can obtain on its own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

Section 10.3 Warranty of Business Purpose. Grantor warrants that the proceeds of the loan represented by the above described Financing Documents and this Trust Deed are for an organization or are for business purposes. Grantor warrants that this Trust Deed is not and will at all times continue not to be a residential trust deed (as such term is defined in ORS 86.705(3)).

Section 10.4 Notice Pursuant to ORS 41.580.

"Under Oregon law, most agreements, promises and commitments made by us after October 3, 1989, concerning loans and other credit extensions which are not for personal, family or household purposes or secured solely by the borrower's residence must be in writing, express consideration and be signed by us to be enforceable."

[The remainder of this page has been intentionally left blank]

IN WITNESS WHEREOF, Grantor has on the date set forth in the acknowledgement hereto, effective as of the date first above written, caused this instrument to be duly EXECUTED AND DELIVERED by authority duly given.

GRANTOR:

SOLOPOWER, INC.,
a Delaware corporation

By: _____

Name: _____

Title: _____

STATE OF _____)
COUNTY OF _____) ss.:

This instrument was acknowledged before me on _____ 2011 by _____, the _____ of Solopower, Inc., a Delaware corporation, on behalf of said corporation, and _____ acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION

Legal Description of premises located at []:

[To be inserted]

Tax Account Number: []

EXHIBIT B

SUBJECT LEASE

The term "Subject Lease" shall mean the agreement of lease described in this Exhibit B. If more than one agreement of lease is described, the "Subject Lease" shall mean (a) each lease individually and (b) all such leases collectively.

That certain [Title of Lease] dated [Date of Lease], [as amended by _____], pursuant to which Grantor leases all or a portion of the Land from [Full Name of Lessor], a memorandum of which was recorded with the County Clerk of [County] County, [State], [contemporaneously herewith] [in [Book/Liber/Reel] [____], Page [____]].

EXHIBIT C

PERMITTED ENCUMBRANCES

Those exceptions set forth in Schedule B of that certain policy of title insurance issued to Beneficiary by
_____ on or about the date hereof pursuant to commitment number _____.